Laws, Resolutions and Memorials

OF THE

STATE OF MONTANA

PASSED BY THE

Eighteenth Legislative Assembly
In Regular Session

Held at Helena, the seat of Government of Said State, commencing January 1st, 1923, and Ending March 1st, 1923

With Appendix of Constitutional Amendments, Initative and Referendum Measures Adopted by Vote of the People at the General Election Held November 7, 1922

PUBLISHED BY AUTHORITY

STATE PUBLISHING CO.
HELENA, MONT

HeinOnline -- 1923 i 1923

CERTIFICATE OF AUTHENTICATION.

State of Montana
Department of
Secretary of State. } ss.

I, C. T. Stewart, Secretary of State of the State of Montana, do hereby certify that the printed laws, resolutions and memorials contained herein are true and correct copies of all the enrolled laws, resolutions, memorials and appropriations that were passed at the Eighteenth Regular Session of the Legislative Assembly of the State of Montana, commencing January 1st, 1923, and held at Helena, the seat of Government of said State, and, in addition, true and correct copies of all Constitutional Amendments, Initiative and Referendum measures adopted by the people of Montana at the General Election, held November 7, A. D. 1922.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this 1st day of May, A. D. 1923.

(Seal)

C. T. STEWART,
Secretary of State.

OFFICERS AND MEMBERS

OF THE

18th Legislative Assembly of the State of Montana

Governor JOS. M. DIXON

Lieutenant Governor and President of the Senate, NELSON STORY, Jr.

Speaker of the House, CALVIN CRUMBAKER

STATE SENATORS

NAME	Residence	County	Politics
Adams, W. K.	Sidney	Richland	Republican
*Church, W. R.	Helena	Lewis & Clark	Democrat
Clark, T. L.	Swet Grass	Toole	Democrat
*Coburn, John W.	Cut Bank	Glacier	Republican
Conser, C. C.	Plevna	Fallon	Republican
Cooper, Geo. R.	Haugan	Mineral	Republican
*Cowan, W. T.	Box Elder	Hill	Republican
*Dearborn, Mark D.	Roundup	Musselshell	Republican
Demel, C. W.	Billings	Yellowstone	Democrat
Dowlin, Charles M.	Forsyth	Rosebud	Republican
Duncan, M. M.	Virginia City	Madison	Democrat
*Esp, John T.	Big Timber	Sweet Grass	Republican
Garber, John D.	Plains	Sanders	Democrat
*Gibson, L. D.	Hysham	Treasure	Republican
*Greening, C. W.	Hardin	Big Horn	Republican
*Greenup, L. F.	Westfork	Daniels	Democrat
*Griffin, James	Chinook	Blaine	Republican
*Haaland, Jasper, Jr.	Joplin	Liberty	Democrat
*Harmon, W. E.	Bozeman	Gallatin	Republican
*Haley, W. S.	Terry	Prairie	Republican
*Hazelbaker, Frank A.	Dillon	Beaverhead	Republican
Healy, Dan	Livingston	Park	Democrat
*Henderson, W. C.	Jordan	Garfield	Republican
*Heren, R. P.	Miles City	Custer	Republican
*Jensen, Peter C.	Powderville	Powder River	Republican
Kane, Thomas	Corvallis	Ravalli	Republican
*Kirton, H. M.	Malta	Phillips	Republican
Leighton, Dr. I. A.	Boulder	Jefferson	Republican
Leuthhold, J. H.	Molt	Stillwater	Republican
*Lowe, Henry W.	Culbertson	Roosevelt	Republican
*Loy, Loren W.	Windham	Golden Valley	Republican
*McCone, George	Lambert	Dawson	Republican
McQuitty, I. S.	Harlowton	Wheatland	Democrat
*Mains, David F.	Manhattan	Pondera	Republican
Mears, John L.	Geyser	Judith Basin	Republican
Muffly, Chas. S.	Winston	Broadwater	Democrat
Oliver, John	Ekalaka	Carter	Republican
Page, John R.	Philipsburg	Granite	Democrat
*Paul, W. J.	Deer Lodge	Powell	Republican
Pauline, Robert	Kalispell	Flathead	Republican
Peck, C. V.	Danvers	Fergus	Republican
Peterson, Peter	Glasgow	Valley	Democrat
Pomeroy, H. G.	Eureka	Lincoln	Republican
Porter, S. H.	Big Sandy	Chouteau	Democrat
Rhoads, Harmon T.	Choteau	Teton	Republican
*Rorvik, Peter	Circle	McCone	Republican
*Siegfriedt, Dr. J. C. F.	Bearcreek	Carbon	Republican
Speer, J. W.	Great Falls	Cascade	Republican
Staggs, W. L.	Wibaux	Wibaux	Republican
*Stewart, James H.	Sixteen	Meagher	Democrat
*Stewart, T. P.	Anaconda	Deer Lodge	Republican
Taylor, Chas. E.	Plentywood	Sheridan	Republican
Walker, Thomas J.	Butte	Silver Bow	Democrat
Watson, Burton	Missoula	Missoula	Democrat

*Holdovers, Elected in 1920.

FRANK CONE, Secretary.

HeinOnline -- 1923 v 1923

HOUSE OF REPRESENTATIVES

NAME	Residence	County	Politics
Andrews, John T.	Butte	Silver Bow	Democrat
Andrus, W. W.	Miles City	Custer	Republican
Armstrong, Bert	Livingston	Park	Democrat
Arnold, W. P.	Richey	Dawson	Republican
Baker, Frank	Chester	Liberty	Republican
Benedict, Joseph	Billings	Yellowstone	Democrat
Bergstrom, Theo.	Willard	Fallon	Democrat
Bernard, P. N.	Kalispell	Flathead	Republican
Berryman, John J.	Billings	Yellowstone	Republican
Bohling, John B.	Dutton	Teton	Republican
Boorman, Carl E.	Great Falls	Cascade	Republican
Bosley, G. A.	Great Falls	Cascade	Democrat
Brandjord, I. M.	Ronan	Missoula	Democrat
Bray, Robert A.	Big Timber	Sweet Grass	Republican
Bricker, R. C.	Windham	Judith Basin	Republican
Buchanan, Frank Jr.	Hesper	Yellowstone	Republican
Buell, H. S.	Bozeman	Gallatin	Republican
Burke, D. J.	Lewistown	Fergus	Democrat
Buttelman, Wm. H.	Willow Creek	Gallatin	Democrat
Cady, William M.	Libby	Lincoln	Republican
Caplis, Jno. J.	Butte	Silver Bow	Democrat
Carlson, Barney E.	Prairie Elk	McCone	Republican
Carlson, C. E.	Bozeman	Gallatin	Democrat
Cavanaugh, P. J.	Butte	Silver Bow	Democrat
Clarke, Walter E.	Forsyth	Rosebud	Republican
Cowley, Stephen J.	Great Falls	Cascade	Democrat
Cronk, John C.	Coburg	Blaine	Republican
Crumbaker, Calvin	Fort Benton	Chouteau	Republican
Davis, G. T.	Carlyle	Wibaux	Republican
Davis, O. P.	Lewistown	Fergus	Democrat
Dean, William	Livingston	Park	Republican
Dell, Wm.	Luther	Carbon	Democrat
Denny, I. G.	Butte	Silver Bow	Democrat
Duffy, James L.	Havre	Hill	Democrat
Elliott, Charles H.	Missoula	Missoula	Democrat
English, M. J.	Butte	Silver Bow	Democrat
Facey, Florence Kerr	Malta	Philips	Republican
Flynn, W. P.	Miles City	Custer	Republican
Fulsher, Dr. Fred R.	Saltese	Mineral	Democrat
Gillette, F. B.	Hinsdale	Valley	Republican
Gillin, John L., Jr.	Sand Coulee	Cascade	Democrat
Goodman, E. H.	Townsend	Broadwater	Democrat
Gullidge, A. O.	Terry	Prairie	Republican
Hamilton, Mrs. W. W.	Dodson	Philips	Democrat
Hanson, Fred	Scobey	Daniels	Republican
Harris, Orville	White Sul. Spgs.	Meagher	Republican
Hawley, Herb C.	Harlowton	Wheatland	Republican
Hoffman, Joseph	Reed Point	Stillwater	Republican
Holton, Albert	Cohagen	Garfield	Republican
Joffray, E. N.	Clancy	Jefferson	Democrat
Johnson, A.	Denton	Fergus	Republican
Kelly, Pat A.	Butte	Silver Bow	Democrat
Kelly, Robert J.	Conrad	Pondera	Democrat
Kennedy, J. D.	Philipsburg	Granite	Republican
Kenyon, D. C.	Chinook	Blaine	Republican
Kinville, Sam	Butte	Silver Bow	Democrat
Larsen, A. T.	Dagmar	Sheridan	Republican
Larson, L. S.	Fairview	Richland	Republican
Lease, N. T.	Great Falls	Cascade	Republican
Leavens, Robert	Billings	Yellowstone	Republican
Lemmon, C. A.	Anaconda	Deer Lodge	Democrat
Loble, Lester H.	Helena	Lewis & Clark	Democrat
McAfee, J. H.	Kalispell	Flathead	Republican
McCarty, Mrs. Catherine Calk.	Glendive	Dawson	Democrat
McCormack, W. S.	Kaispell	Flathead	Republican
McLeod, Angus B.	Butte	Silver Bow	Republican
Maury, Lowndes	Butte	Silver Bow	Democrat
Murphy, C. F.	Anaconda	Deer Lodge	Democrat
Mushback, J. E.	Red Lodge	Carbon	Democrat
Myrick, H. D.	Square Butte	Chouteau	Republican
Nelson, Frank	Potomac	Missoula	Democrat
O'Connell, W. H.	Kalispell	Flathead	Democrat
Oker, Jos.	Helena	Lewis & Clark	Democrat
Ostby, James M.	McCabe	Roosevelt	Republican
Peden, W. A.	Hardin	Big Horn	Republican
Perrine, Jas. A.	Cut Bank	Glacier	Republican
Pilgeram, Wm. P.	Armington	Cascade	Democrat
Pope, Walter L.	Missoula	Missoula	Democrat
Rasmussen, Anton	Lavina	Golden Valley	Democrat
Ridle, M. D.	Shelby	Toole	Democrat
Rodgers, Henry G.	Dillon	Beaverhead	Republican

HeinOnline -- 1923 vi 1923

HOUSE OF REPRESENTATIVES—Continued

NAME	Residence	County	Politics
Roscow, Jessie	Butte	Silver Bow	Democrat
Ruffcorn, Wm. M.	Glasgow	Valley	Republican
Sandy, B. B.	Elgin	Carter	Republican
Scharnikow, Edward	Deer Lodge	Powell	Democrat
Seidensticker, Fred	Twin Bridges	Madison	Republican
Smethurst, Walter	Klein	Musselshell	Democrat
Smith, Paul W.	Helena	Lewis & Clark	Republican
Spencer, J. T.	Bridger	Carbon	Republican
Stoddard, Si	Anaconda	Deer Lodge	Democrat
Stoner, Clair	Outlook	Sheridan	Republican
Strange, G. B.	Stevensville	Ravalli	Republican
Swift, Charles R.	Hysham	Treasure	Republican
Taylor, T. T.	Lewistown	Fergus	Republican
Tawney, George P.	Hamilton	Ravalli	Republican
Terrett, Julian	Brandenberg	Powder River	Democrat
Tierney, Wm. P.	Paradise	Sanders	Democrat
Troy, T. J.	Havre	Hill	Republican
Wold, Ole M.	Laurel	Yellowstone	Republican
Zuck, John Q.	Lundville	Roosevelt	Republican

JAMES A. SHOEMAKER, Chief Clerk.

CONTENTS

Chap.	Senate Bill	House Bill	Title	Page
1		1	An Act Relating to Taxation and the Regulating of the Sale of Property for Taxes Delinquent in the Year 1922, and Remitting the Penalty for Such Delinquent Taxes for Said Year if Paid Before October 1st, 1923.	1
2	7		An Act Regulating the Practice of Podiatry; Providing for the Examination and Licensing of Podiatrists and Penalties for the Violation of This Act	2
3		H. Sub. for H. B. 5	An Act Rlating to the State Board of Equalization, Fixing the Terms and Salaries of the Members Thereof, Prescribing Its Powers and Duties and Repealing Sections 113, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, and 2130 of the Revised Codes of Montana of 1921	5
4		9	An Act to Authorize and Empower Boards of Trustees of School Districts to Establish Endowment Funds, Defining Same, Limiting the Uses Thereof, Providing for the Investment of Endowment Funds in Securities, and Defining the Duties of the County Treasurers With Relation Thereto, and Providing for Memorials to Patrons of Endowment Funds	16
5		10	An Act Making Public Officers Personally Liable for Failure to Provide or Maintain Sinking Funds for Public Bonds	18
6		11	An Act Relating to the Investment of the Permanent Common School Fund and of the Other Permanent Institution Funds of the State; Prescribing the Kinds of Securities in Which These Funds Shall Be Invested; Requiring Some of These Securities to Be Payable on the Amortization Plan, Authorizing the Converting of Bonds and Farm Mortgages Now Held by the State Into Amortization Bonds and Mortgages; and Amending and Re-enacting Section 1928, 1930 and 1932 of the Revised Codes of Montana 1921	19
7	31		An Act to Establish a Game Preserve in a Portion of Lincoln County, for the Protection of Game Animals and Birds, to Be Known as Wolf Creek Game Preserve, and Providing Penalties for the Killing, Hunting, Trapping or Pursuing Any Game Animals or Birds in Such Preserve or the Carrying of Firearms Therein	22
8	32		An Act Providing for the Participation of Policy Holders in the Election of Directors or Corporations Organized in This State for the Transaction of the Business of Life Insurance Upon the Stock Plan, and Repealing Any and All Acts or Parts of Acts in Conflict Therewith, and Providing for This Act Becoming Effective Upon Its Passage and Approval	23
9	9		An Act to Amend Section 6036 of the Revised Codes of Montana, 1921, Relating to Liability of Stockholders in State Banks and Providing Means for Paying and Collecting Said Liability	24
10		14	An Act Providing for the Amortization Plan of Payment for State Lands; Setting Forth the Contents of Certificates of Purchase; Authorizing Certificates of Purchase Now Outstanding to Be Converted Into New Amortization Certificates, and Amending and Re-enacting Section 1860 and 1861 of the Revised Codes of Montana of 1921	25
11		64	An Act to Amend Sections 7147 and 7148 of the Revised Codes of Montana of 1921 Relating to the Apportionment of Fees and Expenses of Water Commissioners	26

CONTENTS

Chap.	Senate Bill	House Bill	Title	Page
12		65	An Act Requiring Persons Operating Motor Cars or Vehicles to Stop After an Accident, and Requiring Such Persons Before Leaving the Place of Accident to Give Their True Names, Residences and License Number, and to Report the Same to Certain Officials ,and Prescribing a Penalty for the Violation Thereof	28
13		57	An Act to Amend Section 221 and to Repeal Section 6085 of the Revised Codes of Montana, 1921, Relating to Fees to Be Paid to Defray the Expenses of the State Examiner	29
14		103	An Act to Amend Section 1215 of the Revised Codes of Montana of 1921, Relating to the Time County Assessor to Report Valuation School Districts	31
15		34	An Act to Amend Section Three (3) of Chapter 144, of the Acts of the Sixteenth Legislative Assembly of the State of Montana, Relating to Judges of the Sixteenth Judicial District	31
16		83	An Act Authorizing Cities and Towns to Include Unplatted, Undedicated or Unsurveyed Lots, Pieces or Parcels of Land Lying Wholly Within the Boundaries of the City or Town Within Special Improvement Districts and to Assess Same for Its Proportionate Share of the Cost of Making or Maintaining Special Improvements in the Same Manner as Other Property Within the Boundaries of Such City or Town	32
17		87	An Act Amending Section 5266 of the Revised Codes of Montana of 1921, Relating to the Contract for Maintenance of Lights in Lighting Districts and the Assessment to Pay the Cost Thereof	32
18		94	An Act to Amend Section 1023 of the Revised Codes of Montana of 1921 Relating to the Creation of New School Districts	34
19	11		An Act to Amend Sections 1280 and 1282, Revised Codes of 1921, Providing for the Distribution of the County High School Tax and Providing What Pupils Shall Be Included in Determining Attendance	34
20	20		An Act Amending Section 6124 of the Revised Codes of Montana of 1921, Relating to Certain Duties of the State Auditor and Commissioner of Insurance	36
21		50	An Act to Amend Sections 4614 and 4622 of the Revised Codes of Montana, 1921, Relating to County Bonds	36
22		125	An Act to Prohibit Possession of and Traffic in Lophorphora Williamsii or Peyote (Pellote) and Agava Americana (Sometimes Known as Mescal Buttons) and Providing Penalties for Its Violation	40
23		142	An Act to Amend Section 8291 of the Revised Codes of Montana, 1921, Relating to Selling or Removing Mortgaged Property to Defraud Mortgagees	41
24		172	An Act to Provide County Assistance for the Shooting, Poisoning and Trapping of Rodents in Control Districts Established by the State Board of Entomology for the Control of Rocky Mountain Spotted Fever; Providing for the Appointment of Persons and Purchase of Material Therefor; Providing for the Payment of the Expense and Authorizing the Levy of a Tax Therefor; and Defining the Term "Rodents"	42
25	63		An Act to Amend Sections 4502, 4503 and 4504 of the Revised Codes of Montana 1921 Relating to Insect Pests, and Providing the Method of Paying the Expense of Insect Pest Extermination	44
26	74		An Act to Amend Section 3324 of the Revised Codes of Montana 1921, Relating to the Inspection of Livestock About to Be Moved From One County to Another Within the State, and Defining the Powers of the Livestock Commission in Reference Thereto	45

HeinOnline -- 1923 x 1923

Chap.	Senate Bill	House Bill	Title	Page
27	77		An Act Providing for the Payment of Filing Fees and Attorneys' Fees in an Action for the Foreclosure of Threshermen's Liens, and Repealing All Acts and Parts of Acts in Conflict Herewith	46
28	78		An Act Amending Sections 8370 of the Revised Codes of Montana of 1921, Relating to the Time in Which Actions for Foreclosure of Threshermen's Liens May Be Commenced	46
29	81		An Act to Amend Section 3341 of the Revised Codes of 1921, Relating to the Shipment of Cattle and the Duties of the Shipper and of the Railroad	47
30	86		An Act for the Publication of the State Examiner's Report Covering the Examination of the Various County Officers as a Part of the Official Proceedings of the Board of County Commissioners of Such County	48
31	98		An Act to Amend Sections Numbered 5404, 5405, 5411, 5413, 5415, 5418, 5442, 5443, 5444, 5448, 5449, 5465, 5466, 5470, 5471, 5487, 5502, 5507, 5515, and 5516, of the Revised Codes of Montana, 1921, Relating to the Commission Manager Plan of Government	48
32	106		An Act to Amend Section 8275 of the Revised Codes of Montana 1921, Relating to Chattel Mortgages	64
33	122		An Act to Establish a Bird Preserve in a Portion of Teton County, for the Protection of Birds, to Be Known as the Teton-Spring Creek Bird Preserve and Providing Penalties for the Killing, Hunting, Trapping and Pursuing Any Birds in Such Preserve, or the Discharging of Fire Arms Therein	65
34	126		An Act Providing for the Keeping of Books and Examination Thereof in School Districts of the Third Class; Declaring the Failure or Refusal to Comply With the Provisions of This Act to Be Grounds for Removal From Office of the Offending Officer; Prescribing the Method of Removal From Office and Providing for the Payment of the Costs of the Proceedings Therefor	66
35	132		An Act Relating to Imitation Butter; Prohibition of Coloring Matter; Sale of Skimmed Milk; Trade Marks; Unfair Discrimination; Penalty for Violation of the Law; Division of Dairying and Farming, Powers and Duties; Regulation of Standards; Samples of Dairy Products for Analysis and Tests; Payment for Same; Compilaton of Statistics and Extension Work; Licensing of Creameries, Cheese Factories and Ice Cream Factories; License Fees; Registration of Factories; Reports of Factories; Adoption of Babcock Test; Examination to Operate the Test; Fee for Certificate to Operate the Test; Methods of Conducting the Babcock Test; Use of Test Bottles; False Determination of Test; Regulation of Cream Stations; Location of Cream Stations; Unsanitary Places Where Dairy Products Are Manufactured or Kept; Interference With Officer in Performance of His Duties; Standards of Dairy Products; Maker's Name on Package Containing Butter; Licenses for Producers of Dairy Products and Amending Sections 2622; 2627; 2628; 2629; 2630; 2631; 3568; 3569, 3570 and 3282 of the Revised Codes of Montana of 1921	67
36	143		An Act to Amend Section 3202 of the Revised Codes, Providing a Penalty	82
37	189		An Act to Amend Section 2083 of the Revised Codes of Montana, 1921, Relating to Bounties on Predatory Animals	83
38		53	An Act Relating to the Issuing of Bonds, Requiring the State of Montana and All Political Subdivisions of the State and Other Taxing Units Having the Power of Issuing Bonds to Give Preference to Amortization Bonds; to	

HeinOnline -- 1923 xi 1923

Chap.	Senate Bill	House Bill	Title	Page
			Accept Serial Bonds Only When Amortization Bonds Can Not Be Negotiated to Good Advantage; Defining These Two Classes of Bonds; and Repealing Acts and Parts of Acts in Conflict With the Provisions of This Act	84
39		67	An Act Prescribing the Penalty for Unlawfully Giving Away, Selling or Disposing of Intoxicating Liquor to a Minor	86
40		127	An Act to Create a State Board of Hail Insurance, Definitg the Duties and Powers of Said Board and Public Officers in Connection Therewith; Providing for the Levy and Collection of Taxes on All Lands Subject to Injury or Destruction by Hail of All Tax Payers Who May Elect to Become Subject to the Provisions of This Act; Providing for Crop Liens in Certain Instances Where the Applicant Is Not the Owner of Land, Providing for Hail Insurance Fund; Providing for the Appointment of Appraisers, the Apprasal and Adjustment of Losses and the Settlement Therefor; Providing for the Foreclosure of Liens; Providing for the Exemption of Benefits From Execution and Attachment; and Amending Sections 350, 351, 352, 354, 355, 358, 360, 361 and 363, Revised Codes of Montana, 1921, and by Adding Three New Sections to Be Numbered 350A, 350B and 354A, and Repealing All Acts and Parts of Acts in Conflict Herewith	86
41		147	An Act to Amend Sections 3574, 3575, 3579, 3588 and 3589 of the Revised Codes of Montana of 1921, Relating to Public Grain Warehouses, the Regulation of Their Charges, Defining the Rights of Owners of Grain Stored in Public Warehouses, and to Amend Chapter 254 of the Revised Codes of 1921, by Adding Thereto, Two New Sections to Be Known as Sections 3588(A) and 3588(B) Forbidding the Sale of Stored Grain and Defining Storage of Grain as a Bailment, and One New Section to Be Known as 3589(a) Providing Protection for Holders of Warehouse Receipts in Case of Insolvency	96
42		227	An Act to Amend Section 1415 of the Revised Codes of Montana 1921, Relating to Appointment of, Removal and Salary of the Superintendent of the Insane Asylum and His Assistants	102
43		255	An Act to Amend Sections 587 of the Revised Codes of Montana of 1921, Relating to Judges of Election, How Appointed and Number of Judges to Be Appointed	103
44		166	An Act to Authorize the Livestock Commission to Expend Moneys Collected	104
45	62		An Act Establishing and Defining the Liability of Cities and Towns in This State for the Negligence or Mis-management of Such Cities and Towns, and Their Officers, Agents, Servants or Employees	105
46	112		An Act to Amend Section 2191 of the Revised Codes of Montana of 1921, Relating to the Sale of Real Estate for Taxes Due Thereon	105
47	148		An Act to Require Clerks of the District Courts to Keep Index Books for Indexing Bonds in Criminal Cases	107
48	154		An Act to Amend Section 2211 of the Revised Codes of Montana of 1921, Relating to Redemption From Tax Sale and Payment of Tax by Incumbrancer	107
49		228	An Act to Amend Section 860 of the Revised Codes of Montana, 1921, Relating to Refunding Fare to Students	108
50		115	An Act to Amend Section 11528 of the Revised Codes of Montana of 1921, Relating to Gates and Fences and Prescribing Punishment for Violation of the Same	109

HeinOnline -- 1923 xii 1923

Chap.	Senate Bill	House Bill	Title	Page
51		266	An Act to Amend Chapter 202 of the Revised Codes of Montana of 1921 by Adding Thereto One New Section to Be Known as Section 2623 (a), Forbidding the Sale of Milk to Which Has Been Added Any Fat or Oil Other Than Milk Fat	109
52		324	An Act to Amend Section 12280 of the Revised Codes of Montana of 1921, Relating to the Arrest or Taking Into Custody of Juvenile Delinquents, and the Proceedings to Be Had Therein	110
53	Sen. Sub. S. B. No. 56		An Act Giving to the Judges of the District Courts of the State of Montana Jurisdiction to Sign Judgments, Decrees, Orders to Show Cause, and All Ex-Parte Orders, in Chambers Anywhere Within the State of Montana	111
54	124		An Act Relating to Irrigation Districts, Enacting a New Section to Be Designated as Section 7189A of the Revised Codes of Montana of 1921, Giving to the Court Continuing Jurisdiction Over Proceedings for Establishment of Districts, for the Inclusion or Exclusion of Lands Therein or the Change of the Boundaries Thereof With Powers to Make Proper Corrections and Amendments of Matters Included in Any Order Made in Any Such Proceeding, Including Description of Lands and Providing the Procedure for the Exercise of Such Powers; Also Enacting Another New Section to Be Designated as Section 7231A of the Revised Codes of Montana of 1921, Providing a Limitation Against Actions or Proceedings Allocating Orders or Decrees Purporting to Establish Districts or Correcting or Amending Any Such Order or Decree, Validating Districts Heretofore Established or Attempted to Be Established by Order of Court and the Acts and Proceedings of Such Districts or Their Commissioners Leading Up to the Authorization, Issuance or Sale, or Proposed Issuance or Sale, of Bonds, as Well as Such Bonds; Also Amending Sections 7190, 7191 and 7192 of the Revised Codes of Montana of 1921, Relating to the Determination of Acreages in Irrigation Districts, and Regulating the Procedure Therefor	112
55	142		An Act Amending Sections 9485 and 9487 of the Revised Codes of the State of Montana of 1921, Relating to Quieting Title to Real Estate	118
56	153		An Act to Amend Section 4565 of the Revised Codes of Montana of 1921 With Reference to the Creation and Establishment of County Free Libraries and Providing for the Management and Control Thereof and for the Appointment of a Librarian and Salary Pertaining Thereto	120
57	205		An Act Creating the Montana Pioneer Historical Fund, the Pioneer Historical Society Commission and Defining and Describing Its Powers and Duties	121
58	43		An Act Relating to the Rights and Disabilities of Aliens With Respect to Lands, Providing for Forfeitures in Certain Cases, Prescribing Penalties, and Repealing All Laws in Conflict Herewith	123
59		198	An Act Relating to Farm Storage Warehouses for Grain; Providing for the Storage, Measuring, Inspection, Grading and Insurance of Grain in Licensed Warehouses on the Farm; Providing for Farm Warehouse Inspectors; Providing for the Issuance of Negotiable Warehouse Certificates Secured by Grain Held in Licensed Farm Warehouses, and Defining the Duties of the County Clerk and of the Commissioner of Agriculture Thereto	127
60		229	An Act to Designate and Provide for the Destruction and Eradication of Canada Thistles and Quack Grass, and the Appointment by County Commissioners and City Councils of a Weed	

HeinOnline -- 1923 xiii 1923

Chap.	Senate Bill	House Bill	Title	Page
			Commissioner, Defining His Duties, Fixing His Compensation and Amending Sections 4508, 4509, 4510, 4511, 4512 of the Revised Codes of Montana 1921	131
61		279	An Act to Define the Duties of All Persons, Firms, or Corporations Who Purchase or Receive Hides of Cattle; to Require Written Bills of Sale Therefor From the Vendor, and the Keeping of a Permanent Record; Prescribing the Contents of Bill of Sale; Making Provisions for the Inspection of Such Hides, and Bills of Sale; Making a Violation of This Act a Misdemeanor, and Prescribing a Penalty	133
62		283	An Act to Amend Chapter 53 of the Penal Code of the State of Montana of 1921 by Adding to Chapter 53 a New Section to Be Known as Section 11515-A; Providing for the Proof Required in Prosecutions for the Killing, Maiming, or Poisoning of Live Stock	135
63		335	An Act to Permit Real Property to Be Redeemed From Tax Sales by Paying the Original Tax and Interest Thereon	135
64		H. Sub. H. B. 36	An Act to Provide for a License Tax Upon Sleeping Car Companies and to Repeal Sections 2314 and 2315 of the Revised Codes of Montana 1921	136
65		40	An Act to Establish a Tax on Direct and Collateral Inheritances, Bequests and Devises; to Provide for Its Assessment and Collection; Directing the Dispositions of the Proceeds Thereof; and to Repeal, Subject to Certain Reservations, Sections 10377 to 10400, Both Inclusive, of the Revised Codes of Montana of 1921, and All Other Acts and Parts of Acts in Conflict With This Act	140
66	45		An Act to Govern the State Purchasing Department and Prescribing the Duties of the State Purchasing Agent With Reference to the Purchase of Supplies for the Various Offices, Boards, Departments and Institutions of the State of Montana; Prescribing the Manner in Which Said Supplies Shall Be Purchased and Setting Forth the Duties of the State Purchasing Agent With Reference Thereto, and Providing for the Compiling of Records in the Office of the State Purchasing Agent and Providing Punishment for the Violation of any of the Provisions of This Act	168
67		196	An Act to Amend Sections 2398, 2399, 2400, 2401, 2402, 2403, 2404 and 2405 of the Revised Codes of Montana of 1921, and Requiring Every Person, Firm, Co-partnership, Association, Joint-Stock Company, Syndicate and Corporation Engaged in or Carrying on the Business of Producing Within This State Petroleum or Other Mineral or Crude Oil, or Engaged in or Carrying on the Business of Owning, Controlling, Managing, Leasing or Operating Within This State Any Well or Wells From Which Petroleum or Other Mineral or Crude Oil Is Produced, to Pay to the State Treasurer for Engaging in and Carrying on Such Business Certain License Fees for the Exclusive Use and Benefit of the State of Montana; Fixing the Amount of Such License Fees; Prescribing a Method for the Assessment and Collection Thereof; and Prescribing Penalties for Violation of the Provisions of This Act; and Repealing Section 2406 of the Revised Codes of Montana of 1921	174
68	201		An Act to Amend Sections 1042, 1043, 1044, 1045, 1047, and 1048 of the Revised Codes of Montana 1921, Relating to the Creation of a Rural School District	179
69		253	An Act to Amend and Re-enact Section 1275 of the Revised Codes of Montana, 1921, Relating to County High Schools	189

HeinOnline -- 1923 xiv 1923

Chap.	Senate Bill	House Bill	Title	Page
70		263	An Act to Amend Section 1010 of the Revised Codes of Montana 1921, Relating to Transportation of Pupils	190
71	123		An Act Relating to the Collection of Taxes and Assessments Levied for Irrigation District and Drainage District Purposes, and Requiring County Treasurers to Collect, Receive and Receipt for Such Irrigation District and Drainage District Taxes and Assessments at the Same Time and Upon the Same Receipts as Taxes Levied Upon Real Property for County Purposes	191
72		119	An Act to be Hereafter Named and Cited as the Old Age Pension Act, Designating the Boards of County Commissioners of the Respective Counties of the State of Montana as the Old Age Pension Commission for Their Several Counties, Prescribing Treir Duties as Such and Giving to Said Old Age Pension Commission Power to Make Such Rules and Regulations as Shall Be Necessary to Carry Out the Provisions of This Act, Providing Certain Persons Over the Age of Sixty Years May Be Granted Old Age Pensions, Describing Their Qualifications Therefor as to Residence, Character and Property; Providing for the Re-payment to the Several Counties of All Money Paid in Old Age Pensions Under Certain Conditions; Providing the Requirements to Be Made by an Applicant Before the Old Age Pension May Be Collected; Providing for Old Age Pension Certificates and Renewal Thereof; Providing for Payment of Old Age Pensions; Providing That Old Age Pensions Shall Not Be Subject to Assignment, Sale, Attachment or Execution; Providing for Cancellation of Old Age Pension Certificates Under Certain Conditions; Providing Penalties for Obtaining or Aiding and Abetting in Obtaining Old Age Pensions Through False Representation or Fraud; Providing for the Disqualification of Applicants Under Certain Conditions; Providing That Old Age Pensions Are to Be Paid From the Poor Fund of the Various Counties; and Providing for the Reports of Old Age Pensions Commissions to the State Auditor; and Repealing All Acts in Conflict Herewith	192
73	72		An Act to Define Wild Animals and to Provide for Their Destruction, Authorizing Co-operation Between the Livestock Commission and the Biological Survey of the United States Department of Agriculture, Providing for the Disposition of Furs, Skins, and Specimens From Animals Destroyed, Authorizing the Tax Commission, or the Department of State Whose Duty It Is to Fix Tax Levies Annually, to Prescribe a Levy Against Livestock, Providing for the Powers and Duties of the Livestock Commission Relative to the Provisions of This Act, and Repealing Sections 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3415, 3416 and 3417 of the Revised Codes of the State of Montana, 1921, and Amending Section 2081 of the Revised Codes of the State of Montana, 1921, Relative Thereto	198
74	73		An Act to Transfer the Balance in the "H. L. Hart, Trustee, Langhorne House Account," Fund to the Livestock Commission Fund for the use of the Livestock Commission	200
75		280	An Act to Define the Duties of All Persons, Firms, Corporations, or Associations Who Slaughter, or Cause to Be Slaughtered, Cattle, or Who Sell, or Distribute Dressed Bovine Meat; to Require Written Statements From the Vendor; Providing for a License; Making a Violation of This Act a Misdemeanor, Providing a Penalty Therefor, and Repealing Chapter 242 of the Revised Codes of Montana 1921	200

HeinOnline -- 1923 xv 1923

Chap.	Senate Bill	House Bill	Title	Page
76		281	An Act Prohibiting the Mutilating, Destroying or Concealing of the Hides of Livestock; Making the Violation of This Act a Felony, and Providing a Penalty for Such Violation	203
77	41		An Act to Amend Sections 3652, 3653, 3681, 3685, 3694, 3695, 3696, 3697, 3699, 3700, 3701, 3702, 3703, 3704, 3707, 3714, 3722, 3723, 3730, 3731, 3732, 3733, 3742, 3745, 3751 and 3753 and Repealing Sections 3686, 3724, and 3752 of the Revised Codes of Montana, Relating to State Fish and Game Commission, Fish and Game, Licenses, Protection and Propagation of Fish and Game	203
78	Sub. S. B. 61		An Act to Amend Section 210 of the Revised Codes of Montana of 1921, Prescribing the Duties of the State Examiner and His Assistants	225
79	91		An Act to Amend Section 4811 of the Revised Codes of Montana, 1921, Relating to the Duties of County Clerks	228
80	93		An Act Fixing the Charge to Be Allowed to Any State or County Officer for the Use of Automobile When Necessarily Used in the Performance of His Official Duty	229
81	100		An Act Providing the Method of Collection of Any Special Poll Tax and Prescribing the Duties of Certain County Officers in Connection Therewith	229
82	119		An Act to Amend Section 4874 of the Revised Codes of Montana of 1921 Relating to the Authority of the County Commissioners to Fix Compensation and Appointment of Deputy County Officers	230
83	120		An Act to Amend Section 12433 of the Revised Codes of Montana of 1921, Relating to the Disposition of Fines, Costs and Forfeitures of All Courts Except Police Courts	231
84	156		An Act to Amend Sections 6071 and 6074 of the Revised Codes of Montana of 1921, Relating to Reports of State Banks to the Superintendent of Banks	231
85	180		An Act Amending Section 182 of the Revised Codes of Montana of 1921 Relating to the Depositing of Funds in the Hands of the State Treasurer; Providing for the Security to Be Delivered by the Banks Designated as Depositories by the State Depository Board	232
86	182		An Act to Provide for the Investment of the Sinking Funds of Counties, Cities and Towns; Prescribing the Kinds of Securities in Which Such Funds Shall Be Invested, and Regulating the Investment of Such Sinking Funds	234
87		52	An Act to Establish a Game Preserve in Portions of Powell and Flathead Counties, for the Protection of Game Animals and Birds, to Be Known as "The Spotted Bear Game Preserve," and Providing Penalties for the Killing, Hunting, Trapping and Pursuing Any Game Animals or Birds in Such Preserve	235
88		131	An Act to Amend Section 6105 of the Revised Codes of Montana of 1921 Relating to Compensation and Expenses of the State Examiner	236
89		135	An Act to Amend Section 4767 of the Revised Codes of Montana of 1921 Relating to the Deposits of County Funds, and Repealing Section 5036 of the Revised Codes of Montana of 1921, Relating to the Deposits of City and Town Funds	237
90		Sub. H. B. 138	An Act Amending Sections 6062 and 6081 of the Revised Codes of Montana 1921, Relating to Banks and Banking and Enacting and Adding to Chapter 13 of Part III of the Civil Code of the Revised Codes of Montana 1921, to Be Known and Designated as Sections 6104a, 6109a, 6109b, 6109c, 6109d, 6109e, 6109f, 6109g, 6109h, and 6109i, Defining Certain Words Used in Such Code, Providing for the Voluntary Liquidation	

HeinOnline -- 1923 xvi 1923

Chap.	Senate Bill	House Bill	Title	Page
			and Consolidation of Banks, Prescribing Certain Powers, Duties, and Liabilities of Banks, Their Officers and Directors and Granting Certain Powers to the Superintendent of Banks	240
91		154	An Act to Establish a Game Preserve in a Portion of Mineral County, for the Protection of Game Animals and Birds, to Be Known as Little St. Joe Game Preserve, and Providing Penalties for the Killing, Hunting, Trapping, and Pursuing Any Game Animals or Birds in Such Preserve, or the Carrying of Fire Arms Therein	247
92		155	An Act to Amend Section 4751 of the Revised Codes of Montana of 1921, Relating to the Receipt for Money by the County Treasurer	248
93		327	An Act to Amend Sections 217 and 221 of the Revised Codes of Montana, 1921, Relating to the Fees of the State Examiner	248
94		Sub. H. B. 101	An Act Amending Section 1938 of the Revised Codes of the State of Montana of 1921, Relating to the Foreclosure of State Land Loans and the Sale of Such Lands Bid in by the State at Foreclosure Sale, and Providing for the Re-Sale Thereof to the Original Mortgagor, His Heirs or Legatees, on the Amortization Plan, and to Provide for the Remission of Penalties for Non-payment of Taxes in Certain Cases	252
95		112	An Act to Amend Section 4465 of the Revised Codes of Montana 1921, Relating to the Jurisdiction and Powers of County Commissioners, by Amending Subdivision 5 hereof	254
96	Sub. S. B. 1 & 19		An Act to Fix the Time and Method of Collecting Taxes and Interest Thereon; Amending Sections 2161, 2163, 2165, 2169, 2171, 2174, 2176, 2180, 2181, and 2182, of the Revised Codes of Montana of 1921, and Repealing Sections 2175, 2183 and 2188 of the Revised Codes of Montana of 1921, All Relating to the Collection of Taxes	257
97	5		An Act for the Submission to the Qualified Electors of the State of Montana of an Amendment to Section 10 of Article IX of the Constitution of the State of Montana, Relating to the Qualifications of County Superintendent of Schools and School District Officers	260
98	21		An Act Prescribing the Qualifications of Electors Who Shall Be Entitled to Vote Upon Proposals to Create or Increase Indebtedness of the State, County, City, Town, School District or Other Municipal Corporation; Providing for the Preparing and Posting of Lists of Such Qualified Electors; Providing for the Preparing and Furnishing of Poll Books; Prescribing the Duties of the County Clerks and Clerk of the City, Town, School District or Other Municipal Corporation, and Repealing Acts or Parts of Acts in Conflict herewith	262
99	38		An Act Amending Section 162 of the Revised Codes of Montana of 1921, Relating to the Commissioner of Insurance	263
100	52		An Act Relating to Chattel Mortgages and Increase Thereof	264
101	53		An Act Requiring Certain Sleighs Used in This State by Any Persons, Firms or Corporations to Be of Certain Width; and Providing a Penalty for Violating the Provisions of This Act	264
102	64		An Act to Amend Sections 2238 and 2239 of the Revised Codes of Montana of 1921, Relating to the Collection of Personal Property Taxes	265
103	68		An Act Authorizing Board of Commissioners of Irrigation Districts to Cancel Assessments Made for the Benefit of the United States, and to Amend Section 7236 of the Revised Codes of 1921	266
104	Sub. S. B. 82		An Act to Amend Sections 1211 and 1212 of the Revised Codes of Montana 1921, Providing for the Apportionment and Distribution of Oil and Gas Royalties Received From the United States	268

HeinOnline -- 1923 xvii 1923

Chap.	Senate Bill	House Bill	Title	Page
105	89		An Act to Amend Sections 3859 and 3875 of the Revised Codes of Montana, 1921, Relating to the Inspection of Water Craft, Appointment of Inspectors and Their Compensation, and Inspection and License Fees	270
106	92		An Act Requiring Bank Checks to Be Presented Within a Year From Date Thereof	271
107	99		An Act to Amend Section 1760 of the Revised Codes of Montana, 1921, Relating to the Registration Fees for Motor Vehicles and the Disposition Thereof, and Repealing All Acts and Parts of Acts in Conflict Herewith	271
108	167		An Act to Provide for the Payment of Forfeited Shares in Building and Loan Association	273
109	207		An Act to Repeal Sections 7340 and 7341 of the Revised Codes of 1921, Relating to the Procedure for the Exemption of Lands From Liability for Drainage District Assessments; and Amending Section 7342 of the Revised Codes of 1921 Relating to the Effect of a Void Assessment	274
110	208		An Act Directing the State Treasurer and State Auditor of Montana to Open and Maintain Upon Their Respective Books of Accounts Certain Fund Accounts for the Recording of All Transactions Affecting Moneys Coming Into the Possession of the State Treasurer, and Repealing All Acts or Parts of Acts in Conflict Herewith	275
111	140		An Act Placing Under the Supervision of the State Examiner All Corporations Within the State Doing Business Similar to That of a Building and Loan Association, and Making Applicable Thereto the Building and Loan Association Laws of State and Defining the Powers of Such Corporations	277
112	173		An Act Amending Sections 6453, 6454 and 6455 of the Revised Codes of Montana of 1921, Relating to the Formation of Religious, Fraternal, Benevolent and Charitable Corporations	278
113	191		An Act to Amend Section 10256 of the Revised Codes of Montana, 1921, Relating to Leasing by Executors and Administrators of Realty Belonging to Estates of Deceased Persons and Obtaining Order of Court Therefor	281
114	195		An Act to Amend Section 5159 of the Revised Codes of Montana of 1921 Relating to the Appointment of Boards of Park Commissioners	283
115		146	An Act to Authorize the State Treasurer to Transfer Certain Funds	284
116		180	An Act Amending Sections 11071, 11075 and 11079 of the Revised Codes of Montana of 1921, Relating to the Manufacture, Sale and Use of Intoxicating Liquors, and Enacting and Adding to Chapter 29 of the Penal Code of the Revised Codes of Montana of 1921 a New Section to Be Numbered and Designated as Section 11048a, Prohibiting the Sale, Exchange, Gift, Barter, or Disposal of Any Ardent Spirits, or Any Compound Thereof, Capable of Use as a Beverage, or Any Ale, Beer, Wine, or Intoxicating Liquor of Any Kind, in the State of Montana, and Prohibiting the Manufacture, or Introduction of Any Intoxicating Liquor Into This State, and Providing Penalties for the Violation of This Act	284
117		217	An Act to Amend Section 4824 of the Revised Codes of Montana, 1921, Relating to the Office of County Auditor	289
118		225	An Act to Amend Sections 4268 and 4270 of the Revised Codes of Montana of 1921, Relating to the Classification and Quality of Apples and Defining Grades and Standards of Apples	290
119		231	An Act to Amend Sections 5097, 5098, 5099, 5100, 5101 and 5106 of the Revised Codes of Montana of 1921, Prescribing the Qualifications of Policemen in Cities, Their Term of Office, the Method of Their Appointment, Trials for Mis-	

HeinOnline -- 1923 xviii 1923

Chap.	Senate Bill	House Bill	Title	Page
			conduct or Malfeasance in Office, Their Suspension or Discharge, and to Provide for the Creation of a Police Commission to Examine All Applicants and to Try and Determine All Charges Filed Against Policemen, and Prescribing the Method of Review and Appeal of Any Sentences Imposed, and Defining Who Are on the Eligible List for Service	292
120		240	An Act Providing for the Incarceration of Prisoners Committed Under Process or Order Issued Under Authority of the United States in County Jails, Making It the Duty of the Sheriff to Receive Such Prisoners, Making Provisions for the Support of Such Prisoners and Repealing Section 12,472 of the Revised Codes of Montana of 1921, and All Acts and Parts of Acts in Conflict Herewith	297
121		249	An Act Authorizing and Providing for the Consolidation and Merging of the Corporate Existence and Government of Any County in the State and of All Cities and Towns Situated Therein Into One Municipal Corporation and Government, Defining the Powers Thereof and Providing a Commission Manager Plan of Government Therefor	298
122		Sub. 69 H. B.	An Act Amending Section 1015 of the Revised Codes of Montana of 1921, Relating to the Powers and Duties of School Trustees	338
123		80	An Act Legalizing the Acts of Boards of School Trustees in Purchasing or Building Dormitories, Furnishing and Equipping the Same	341
124		285	An Act to Amend Section 443 of the Revised Codes of Montana Relative to the Allowance of Traveling or Other Expenses of State, County, City, School District, or Employees of the State, or Any County, or City or Any School District	342
125		304	An Act to Authorize the Discontinuance of County High Schools, Specifying a Procedure Therefor and Prescribing the Method of Disposing of the Property of Such High Schools and of Caring for Their Obligations in the Event of Such Abolishment	343
126	42		An Act to Amend Section 1294 of the Revised Codes of Montana of 1921, Respecting the Requirements of District and High School Boards of Trustees in the Appointment of a Superintendent	346
127	66		An Act to Amend Section 1271 of the Revised Codes of Montana 1921 Relating to the Powers and Duties of Boards of Trustees of County High Schools	347
128	79		An Emergency Act Authorizing the Board of School Trustees of Any School District, Having All or Any Part of Its Funds Deposited in Any Bank, Which Has Become Insolvent, to Issue Warrants for the Necessary Current Expenses of the School to the Amount of Not to Exceed One Hundred Percentum of Such Funds so Deposited; to Fund Such Warrants by the Issuance of Bonds Under Certain Conditions Described Herein, Providing for the Payment of the Principal and Interest of Such Bonds and for the Levying of a Tax Therefor; and Declaring This Act to Be an Emergency Measure	348
129	85		An Emergency Act Authorizing the Board of Trustees of Any County High School Having All or Any Part of Its Funds Deposited in Any Bank, Which Has Become Insolvent, to Issue Warrants for the Necessary Current Expenses for the Said County High School to the Amount of Not to Exceed 100 Percentum of Such Funds So Deposited; Authorizing the Board of County Commissioners to Refund Such Warrants by the Issuance of Bonds Under Certain Conditions Described Herein; Providing for the Payment of the Principal and Interest of Such Bonds and for the Levying of the Tax Therefor; and Declaring This Act to Be an Emergency Measure	352

HeinOnline -- 1923 xix 1923

Chap.	Senate Bill	House Bill	Title	Page
130	149		An Emergency Act Authorizing the Board of School Trustees of Any School District to Fund Outstanding Indebtedness by the Issuance of Ten Year Amortization Bonds	355
131	186		An Act to Repeal Section 836, Paragraph 7, of the Revised Codes of Montana 1921, Relating to Powers and Duties of State Board of Education; to Repeal Section 837, 838, 839, and 840 of the Revised Codes of Montana 1921, Relating to the Issuance of State Certificates and Life Certificates; to Amend Section 944 of the Revised Codes of Montana 1921, Relating to Examinations; to Repeal Section 947 of the Revised Codes of Montana 1921, Relating to Temporary State Certificates; to Repeal Section 1074 of the Revised Codes of Montana 1921, Relating to Certificate of Qualification, 1086 of the Revised Codes of Montana 1921, Relating to Normal Training Requirements and 1087 of the Revised Codes of Montana 1921, Relating to Suspension of Teachers' Certificates; to Amend Chapter 86 of the Political Codes of Montana 1921, Pertaining to State and County Examinations and Certificates; and Being an Act Codifying and Amending the School Laws of Montana Regarding Examination and Certification of Teachers	358
132	101		An Act Providing the Fees to Be Paid by Foreign Corporations for Filing a Certified Copy of Its Charter or Articles of Incorporation in the Office of the Secretary of State of the State of Montana	379
133		19	An Act to Amend Sections 640, 641, 644, 645, 651 and 652 and to Repeal Sections 642 and 643 of the Revised Codes of Montana of 1921, All Relating to Primary Elections	381
134		27	An Act to Submit to the Qualified Electors of the State of Montana an Amendment to the Constitution of the State of Montana, Adding Thereto a New Article Providing for the Acceptance and Administration by the State of Gifts, Donations, Grants and Legacies for the Creation of a State Permanent Revenue Fund, for the Creation of a State Permanent School Fund for the Creation of a Permanent Revenue Fund for the University of Montana, and for the Benefit of Other Useful, Benevolent and Worthy Objects; and Authorizing the State to Administer Other Funds Together With Those Hereinbefore Indicated	386
135		76	An Act to Amend Sections 5228 and 5229 of the Revised Codes of Montana 1921, Relating to the Area Embraced in Special Improvement Districts, and to Protests Against Such Work	392
136		139	An Act Authorizing Cities and Towns to Regulate and License Soft Drinks Establishments and Pool and Billiard Halls, and to Authorize Said Cities and Towns to Limit the Number Thereof Allowed to Do Business in Any Given City or Town	394
137		409	An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to the Constitution of the State of Montana by Adding Thereto an Article to Be Known as Article XXII, Providng for the Payment of Adjusted Compensation to Bona Fide Residents of the State of Montana Who Served on Active Duty in the Army, Navy or Marine Corps of the United States in the World War and to Such of Said Persons Who Being Citizens of the United States Served in the Naval, Military or Air Forces of Any of the Governments Associated With the United States During Said War, and Authorizing the Incurring of an Indebtedness; Authorizing the Issuing of Bonds; Providing for the Levy of a Tax	394
138	4		An Act Abolishing the Office of State Parole Commissioner and Repealing Sections 12516 to 12518 Inclusive of the Revised Codes of Montana of 1921	401

HeinOnline -- 1923 xx 1923

Chap.	Senate Bill	House Bill	Title	Page
139	39		An Act Repealing Sections 675 and 676, Revised Codes of Montana of 1921, Relating to the Printing of Campaign Books in the Primary Election for President	402
140	49		An Act to Amend Section 2726 of the Revised Codes of the State of Montana of 1921, Relating to Inspection of Boilers	402
141	57		An Act to Amend Section 1652 of the Revised Codes of Montana of 1921, Relating to Special Road Districts, Objects, Powers and Duties	403
142	80		An Act to Repeal Sections 3469, 3470, 3471 and 3477 Chapter 252 Revised Codes of Montana 1921, Known as the Coal Mining Code	405
143	96		An Act to Amend Section 8412 of the Revised Codes of Montana of 1921, Relating to Negotiable Instruments	405
144	104		An Act to Amend Section 6445 of the Revised Codes of Montana of 1921, Relating to Reports of Co-operative Associations, and Providing for an Examination of the Accounts of Such Associations	406
145		121	An Act to Amend Section 6236 of the Revised Codes of Montana of 1921 Relating to Official Bonds Required of Public Officers	406
146	129		An Act to Amend Sections 2296, 2299, 2300, 2302, and 2303 of the Revised Codes of Montana of 1921, Relating to the Imposition and Method of Collecting Corporation License Tax	407
147	144		An Act Relating to Irrigation Districts Organized Under Chapter 153 Session Laws, 1921, and Amending and Re-enacting Sections 3956, 3960, 3965, 3968, 3969, 3970, 3973, 3974, 3975, 3990, 4014 of the Revised Codes of Montana, 1921, Which Relate to the Procedure for Organizing Said Irrigation Districts, and Examination and Report of the Public Service Commissaon Thereon, the Meeting of Directors of Said District and the Election of Officers of the Board, Providing for the Formulation of the Plan of Reclamation of Said Districts and the Final Report of the Public Service Commission Thereon, and Fixing the Form and Terms of the Bonds of Said Districts and Prescribing That the Same, When Certified by the Public Service Commission, Shall Be Legal Investments, Providing for the Delivery of Bonds of Said Districts to Contractors in Lieu of Sale, or for Sale of Said Bonds, Fixing the Time for Payment of Said Bonds and Prescribing the Lien Thereof, Providing for the Determination of the Amount of the Annual Assessment for Sinking Fund and Other Purposes, Providing for the Determination of the Annual Administrative Expenses and Levy and Collection Thereof, Fixing the Limitations on the Power of the Directors to Incur Indebtedness, Prescribing the Method for the Election of the Directors of Said District and for the Organization of Said Directors as a Board, and Authorizing the State Land Board to Sign Petitions for the Inclusion of State Lands in Irrigation Districts, Organized Under This Act and to Pay Assessments Therefor Out of Any Funds Belonging to Said Board Not Otherwise Appropriated	411
148	157		An Act to Amend Subdivision 2 of Section 6537 of the Revised Codes of Montana of 1921, Relating to Leases, Sales and Mortgages of Railroad Equipment and Rolling Stock, and Providing That the Same Shall Be Filed for Record in the Office of the Secretary of State	426
149	194		An Act Providing for the Propounding and Prosecution of a Claim by and in the Name of the State of Montana Against the Government of the United States for the Recovery, Under the Present Laws of the United States or Such as May Be Hereafter Eenacted, From Said Government of All Moneys Heretofore Paid Illegally Into the Federal Treasury as a Direct Tax Upon	

HeinOnline -- 1923 xxi 1923

		Property Situated in the State of Montana; Providing for the Recovery of Same; Authorizing the Board of Examiners of the State to Employ Counsel and Enter Into the Necessary Contracts and Agreements for the Carrying Out of the Object of This Act; Providing for Notice to and Procedure by Claimants of Such Moneys and Fixing a Prescription Period After Which Such Moneys Shall Escheat to and Become the Absolute Property of the State of Montana	427
150	354	An Act to Amend Sections 2382, 2383 and 2392 of the Revised Codes of Montana of 1921 Relating to the Imposition of the Tax on Gasoline, the Collection and Disposition Thereof, Providing for Refunding Tax Paid in Certain Cases, and Repealing Sections 2393 and 2394 of the Revised Codes of the State of Montana, 1921	430
151	35	An Act to Amend Section 717, 718 and 721 of Part 3, of the Political Code of Montana of 1921, Relating to Application of Absent Voter's Ballot	432
152	55	An Act Amending Section 8375 and Section 8377 of the Revised Codes of the State of Montana, 1921, Relating to Liens for Labor and Materials Furnished to Owners of Leaseholds for Oil and Gas Purposes and for Materials and Labor for the Construction of Oil and Gas Pipe Lines and Prescribing a Title of Perfecting and Enforcing Such Laws	434
153	Sub. 59	An Act to Amend Sections 1224, 1225, 1226, 1228, and 1229 and to Repeal Sections 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241 and 1242 Revised Codes of Montana 1921, All Relating to School District Bonds	435
154	84	An Act Providing for the Supervision and Regulation of the Transportation of Persons and Property for Compensation Over Any Public Highway in the State of Montana by Motor Vehicles, Motor Trucks, Motor Busses, Bus Trailer, Semi-trailers and Other Motor Vehicles, Defining What Constitutes Transportation for Compensation, Defining Transportation Companies, and Providing for the Supervision and Regulation Thereof by the Railroad Commission of Montana; Providing for the Enforcement of This Act and the Punishment for Violation Thereof and Declaring an Emergency	443
155	260	An Act Appropriating Money for the Purchase of Certain Property for the Montana State Prison	449
156	107	An Act to Amend Section 5194 of the Revised Codes of Montana of 1921, Relating to the Levy of Taxes by Municipalities for General Municipal Administrative and Park Purposes	449
157	113	An Act Relating to Irrigation Districts, and Amending and Re-enacting Sections 7166, 7171, 7173, 7174, 7177, 7184, 7210, 7212, 7214, 7215, 7220, 7224, 7226, 7227, 7228, 7229, 7230, 7234, and 7235 of the Revised Codes of Montana of 1921, Which Relate to the Establishment, Organization and Government of Irrigation District; Providing Who May Organize Such Districts and in What Cases, and Requirements Therefor, and Making Regulations for the Status, Powers, Duties, Organization and Place of Meeting of the Board of Commissioners of Such Districts, Vacancies in Such Board, and the Salary and Compensation of Such Commissioners and Penalty for Interest in Contracts; for the Qualification and Designation of Electors and the Manner of Voting by Agents, Co-owners and Purchasers of Land Under Contract of Sale; Concerning the Purposes for Which Bonds of Such Districts May be Issued, and the Authorization, Issuance, Confirmation, Details, Record, Negotiation, Disposition, Delivery and Cancellation of Such Bonds, and the Dispositon of Proceeds of Sale Thereof; for the Refunding, Redemption and Payment of Bonds and Warrants of Such Districts, and the Authorization, Issuance, Confirmation, Details, Record, Negotiation, Disposition, Delivery and	

HeinOnline -- 1923 xxii 1923

Chap.	Senate Bill	House Bill	Title	Page
			Cancellation of Refunding Bonds of Such Districts, and the Lien of Such Refunding Bonds and of Taxes and Assessments Levied to Pay the Same; Also Providing Rules for Apportionment of Costs and the Charging Thereof to the Lands, With Express Provisions for Pumping Costs; Making Regulations for Assessments and the Levy, Adjustment, Collection and Cancellation of, and Limitations Upon, Taxes and Assessments, and the Apportionment of Such Taxes and Assessments According to the Irrigable Area of Such Districts; for the Expnses of the State Irrigation District Bond Commission and the Expenditures by Such Districts of Funds Derived From Bonds Certified by Such Commission; and Enacting Two New Sections to Be Designated as Sections 7235A and 7235B of Said Revised Codes of Montana of 1921, Also Relating to Such Irrigation Districts, Providing for Proceeding and for the Determination of the Irrigable Area of Such Districts and the Apportionment of the Costs of Any Work or Improvements to the Lands in Such Districts, and the Confirmation of Such Proceedings by the District Court, and Providing for the Extent of the Taxes and Assessments Levied Upon the Lands in Such Districts and for the Refund or Cancellation of Assessments Upon Excess Acreage, and Limiting and Defining the Rights and Privileges of Owners of Tracts of Land Containing No Irrigable Area, and Limiting the Period Within Which the Taxable Acreage of Any Lands in Said Districts May Be Fixed and Adjudicated	450
158	171		An Act Defining the Meaning of "Property," "Value of Property," "Taxable Value," and "Assessed Value" and Other Expressions in the Limitations Upon Levying, or in Any Statute, Law, or Rule, Imposing Taxes in the State of Montana	479
159	183		An Act to Amend Section 180 of the Revised Codes of Montana of 1921, Relating to the Payment, Registry and Interest on State Warrants	479
160		111	An Act to Authorize and Provide for the Consolidation and Merging of the Corporate Existence and Government of the County of Silver Bow and All Cities and Towns Therein Into One Municipal Corporation and Government Under the Corporate Name City and County of Butte; Defining the Powers Thereof and Providing a Commission Manager Plan of Government Therefor	480
161		176	An Act to Amend Section 7211, Revised Codes Montana, 1921 Relating to the Petition for Bonds of Irrigation Districts and Action Thereon and to the Confirmation by the District Court of Bond Proceedings of Irrigation Districts, by Providing That the Proceedings Enumerated in Such Sections Shall Not Be Had or Accomplished Until Compliance Is First Had With Sections 7216, 7218, Revised Codes Montana, 1921, as Amended Herein and With All the Sections of This Act; and to Amend Sections 7216 and 7218 Revised Codes, Montana, 1921, by Providing for the Submission to the Irrigation District Bond Commission for All Proceedings for Issuance of Bonds of Irrigation Districts Now or Hereafter Created, Under and by Virtue of Chapter 146, Laws 1909, and Act Amendatory Thereof and Supplemental Thereto as Embraced in Sections 7166 to 7264, Revised Codes, Montana, 1921	524
162		375	An Act to Provide for the Support of the Government of the State of Montana for the Years 1923 and 1924	530
163		398	An Act Appropriating Money for the Administration and Other Expenses of the State Highway Commission and for the Maintenance and	

HeinOnline -- 1923 xxiii 1923

Chap.	Senate Bill	House Bill	Title	Page
			Construction, Supervision and Inspection of State Highways for the Two Years Beginning July 1, 1923 and Ending June 30, 1925	533
164	21		An Act to Prevent the Procreation of Hereditary Idiots, Feebleminded, Insane, and Epileptics Who Are Inmates of Custodial Institutions, by Authorizing and Providing for Eugenical Sterilization for Said Inmates	534
165		391	An Act Appropriating Money for the Operation of the Montana State Fair for the Period Beginning July 1st, 1923, and Ending June 30th, 1925 and Amending Section 3645, Revised Codes of Montana of 1921 Relating to Income and Earnings of the Montana State Fair, Providing That Such Income and Earnings Shall Be Turned Into the State General Fund	537

APPROPRIATION BILLS

House Bill	Title	Page
2	An Act to Appropriate Money for the Payment of Mileage and Per Diem of the Members of the Eighteenth Legislative Assembly of the State of Montana	545
3	An Act to Appropriate Money for the Payment of the Per Diem of the Officers and Attaches of the Eighteenth Legislative Assembly of the State of Montana	545
4	An Act to Appropriate Money for the Incidental Expenses of the Eighteenth Legislative Assembly of the State of Montana	545
157	An Act to Appropriate Money Out of the State Highway Fund for the Payment of Claims for Labor and Services and for Material and Supplies Furnished in the Construction of State Highways Designated as Federal Aid Projects Numbers 66 and 101	545
165	An Act Appropriating Money for the Maintenance of the Industrial Accident Board for the Fiscal Year Beginning July 1, 1922 and Ending June 30, 1923 and to Rectify a Misappropriation Made by the Seventeenth Legislative Session	546
222	An Act Appropriating Money for the Operation and Maintenance of Certain of the State Institutions of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925	547
268	An Act Appropriating Money to Pay Balance Unpaid on Judgment in Favor of the General Electric Company and Against C. T. Stewart, as Secretary of State, for Fees Illegally Collected	551
271	An Act Making an Appropriation to Pay the Salaries, Compensation and Expenses of the Assistants and Clerks of the Old State Board of Equalization and the Office Expenses Incurred in Connection With the Work of the Old State Board of Equalization During the Interim Between the Adoption of the Amendment to Section 15 of Article 12 of the Constitution, December 15, 1922, and the Time of the Organization of the New State Board of Equalization Under Such Constitutional Amendment, on February 3, 1923	551
303	An Act to Appropriate Money for the Construction of a Children's Pavilion at the State Tuberculosis Sanitarium at Galen, Montana	552
309	An Act to Appropriate $773.92 to W. D. Delphy in Settlement for Expenses Incurred During the Years 1918, 1919 and 1920 While Serving in the Capacity of State Deputy Game Warden	553
323	An Act to Appropriate Money From the Industrial Accident Fund of the State of Montana for the Payment of the Claim of Sam Nestor Which Was Disallowed by Said Board Because the Claim Was Not Presented Within Six Months	554
359	An Act Appropriating Money for the Operation and Maintenance of Certain of the Boards, Commissions and Departments of the State of Montana for the Period Beginning July 1st, 1923 and Ending June 30th, 1925	554
360	An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of the Various State Institutions of the State of Montana for the Year Ending February 28th, 1923	558
361	An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of Various State Departments for the Year Ending June 30th, 1923	559

HeinOnline -- 1923 xxiv 1923

House Bill	Title	Page
362	An Act Appropriating Money for the Payment of Deficiency Claims on Account of Refunds Becoming Due During the Year Ending February 28th, 1923	559
367	An Act Appropriating Money for the Return of the Inheritance of Giusepp Marchi, Which Has Escheated to the State Under the Mistake That No Heir Existed	560
373	An Act to Appropriate Money Out of the State Highway Fund for the Payment of Claims for Labor and Services Furnished in the Construction of the State Highway Designated as Federal Aid Projects Number 109	561
384	An Act Appropriating Money for the Payment of Deficiency Claims on Account of Transporting of Prisoners Becoming Due During the Year Ending February 28th, 1923	561
385	An Act Appropriating Money for the Payment of Deficiency Claims on Account of Legislative Printing of the Seventeenth Legislative Assembly	562
386	An Act Appropriating Money for the Payment of Deficiency Claims on Account of Feeding Drug Addicts Becoming Due During the Year Ending February 28th, 1923	562
387	An Act Appropriating Money for the Payment of Deficiency Claims on Account of Requisitions Becoming Due During the Year Ending February 28th, 1923	563
388	An Act Appropriating Money for the Payment of Deficiency Claims of Various Claimants for the Year of 1919, as Provided by Chapter 49, of the Laws of Montana 1915	563
389	An Act Appropriating Money for the Operation and Maintenance of the Industrial Accident Board and for the Operation, Maintenance and Payment of Training Expenses of the Work of Vocational Rehabilitation	564
390	An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of Various State Departments for the Year Ending February 28th, 1923	566
393	An Act Appropriating Money to Reimburse James L. Stillwell for Moneys Expended and Loss Sustained in Defense of Titles to Certain Lands Purchased From the State Board of Land Commissioners Upon Which He Was Subsequently Contested	566
395	An Act Appropriating Money for the Operation and Maintenance of Certain of the State Institutions of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925	567
396	An Act Appropriating Money for the Payment of Deficiency Claims on Account of Feeding Drug Addicts Becoming Due During the Year Ending February 28th, 1923	569
397	An Act Appropriating Money for the Payment of Deficiency Claims on Account of Transporting Prisoners Becoming Due During the Year Ending February, 28th, 1923	570
400	An Act Appropriating Money for the Operation and Maintenance of Certain of the State Institutions of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925	570
401	An Act Appropriating Money for the Operation and Maintenance of the Office of the State Fire Marshal to Be Paid From the State Fire Marshal's Fund for the Period Beginning July 1st, 1923 to June 30th, 1925	575
402	An Act Appropriating Money for the Operation and Maintenance of Certain of the Boards, Commissions and Departments of the State of Montana for the Period Beginning July 1st, 1923 and Ending June 30th, 1925	576
403	An Act Appropriating Money for the Operation and Maintenance of the State Board of Equalization for the Period Beginning February 3, 1923 and Ending June 30th, 1925	580
404	An Act Appropriating Money for the Operation and Maintenance of the Department of Hail Insurance and for the Payment of Losses to Be Paid From the State Hail Insurance Fund for the Period Beginning July 1st, 1923 to July 30th, 1925	582
405	An Act Appropriating Money for the Operation and Maintenance of Certain of the State Boards, Commissions and Departments of the State of Montana for the Period Beginning July 1st, 1923, and Ending June 30th, 1925	583
406	An Act Appropriating Money for the Operation and Maintenance of Certain of the State Departments of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925	585

HeinOnline -- 1923 xxv 1923

House Bill	Title	Page
407	An Act to Appropriate Money for the Operation and Maintenance of Certain of the State Boards and Commissions of the State of Montana for the Period Beginning July 1, 1923 to June 30, 1925	590
408	An Act Appropriating Money for the Operation and Maintenance of Certain of the Boards, Commissions, and Departments of the State of Montana for the Period Beginning July 1st, 1923 and Ending June 30th, 1925	594
411	An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of Certain of the State Boards, Institutions and Departments of the State of Montana for the Year Ending February 28th, 1921	600
412	An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of Certain of the State Institutions and Departments of the State of Montana for the Year Ending February 28th, 1921 and for the Year Ending June 30, 1921	601
413	An Act to Appropriate Money for the Incidental Expenses of the Eighteenth Legislative Assembly of the State of Montana and for the Salaries of the Officers and Attaches of the Same	601

MEMORIALS AND RESOLUTIONS

Bills	Title	Page
Senate Concurrent Resolution No. 1	The Dedication of the Fort Ellis Military Reservation	605
Senate Joint Memorial No. 1	Memorial to the Congress of the United States, to Enact Such Legislation as May Be Necessary to Issue Patents to Farm Units on Federal Reclamation Projects in Order That Such Farm Units May Become Taxable	608
Senate Substitute Joint Resolution No. 2	Stabilization of Price of Farm Products	606
Senate Joint Resolution No. 3	To Maintain Adequate Prices of Silver	607
House Resolution No. 3	A Resolution Requesting the Appointment of Edward E. Morris as Official Caretaker or Superintendent at One of Our American National Cemeteries in Europe	602
House Joint Memorial No. 4	Memorial to the Congress of the United States Praying for an Appropriation to Provide for the Construction of Public Roads Leading Into and Through National Forests, Indian Reservations and Other Public Land Areas	602
House Joint Memorial No. 6	Petition to Congress Enacting Such Laws and Measures as Will Provide for a 'Great Lakes-St. Lawrence Water Way Project'	604
Senate Joint Memorial No. 5	Memorial to the Senate of the United States of America in Congress Assembled, to Adopt Resolution Passed by the House of Representatives, Making Income From Securities Hereafter Issued by or Under the Authority of the State Power to Tax Federal Securities	609
Senate Joint. Memorial No. 6	Memorial to the Congress of the United States to Enact Such Legislation Providing for the Forty Year Plan, to Meet Construction, Operating and Maintenance Charges of Government Reclamation Projects	610

HeinOnline -- 1923 xxvi 1923

APPENDIX

CONSTITUTIONAL AMENDMENTS:

Page

An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to Article XVI of the Constitution of the State of Montana by Adding Thereto a Section to Be Known as Section 7, Authorizing the Legislative Assembly by a General or Special Law to Provide a Form and Plan of Government for Counties or for Cities and Counties Under Such Form or Plan as the Legislative Assembly May Prescribe 612

An Act for the Submission to the Qualified Electors of the State of Montana of an Amendment to Section Fifteen of Article Twelve of the Constitution of the State of Montana, as Amended; Creating County Board of Equalization and a State Board of Equalization, and Defining and Prescribing Their Powers and Duties 613

REFERENDUM MEASURE NO. 25:

An Act Providing for the Payment of Equalized Compensation to Each Soldier Who Served in the Military or Naval Forces of the United States During the War Between the United States and the German Empire and Its Allies Between the Sixth Day of April, Nineteen Hundred and Seventeen and the Eleventh Day of November, Nineteen Hundred and Eighteen; Authorizing the State of Montana to Become Indebted in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000 00) in Excess of the Constitutional Limit Over and Above Any Bonded Indebtedness Heretofore Incurred or Created and for Which Said State Is Now Obligated; Providing for the Issuance and Sale of Bonds of and in the Name of the State of Montana in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000 00) to Acquire Funds for the Payment of Said Equalized Compensation, Prescribing the Form of Such Bond; Providing for the Creation of a Fund to Pay the Principal and Interest of Said Bonds by Levying a Sufficient Annual Tax to Pay the Principal and Interest Accruing Thereon; Making an Appropriation; Providing Penalties; Providing for the Submission to the Qualified Electors of the State of Montana at the Next General or Special Election the Question of the Issuance of Such Bonds and Describing the Form of the Ballots to Be Used and the Duties of the State Board of Examiners Relative to the Issuance of Such Bonds and the Duties of the Secretary of the State of Montana Relative to the Submission of Said Question to the Qualified Electors of Said State 615

Lake County, Resolution of Board of County Commissioners of Flathead County Creating 623

HeinOnline -- 1923 xxvii 1923

SESSION LAWS

CHAPTER 1.

An Act Relating to Taxation and the Regulating of the Sale of Property for Taxes Delinquent in the year 1922, and Remitting the Penalty for Such Delinquent Taxes for Said Year if Paid Before October 1st, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Tax sales for delinquencies of 1922.

Section 1. No property upon which taxes of any sort have been levied in the State of Montana for the year 1922 shall be sold for such delinquent taxes until the first day of October, 1923.

Publication of notices, relative postponement time of tax sale.

Section 2. All County and City Treasurers are required to publish a notice once in the official newspapers in their respective counties or cities to the effect that the time of such tax sale in their respective counties or cities is postponed until the first day of October, 1923, and all existing laws of the state relative to the place and manner of sale of property for delinquent taxes shall apply to and cover said tax sales made on said date, provided, that no further publication of delinquent tax lists shall be made.

Existing laws for delinquent tax sales shall apply, except no further publication of delinquent tax lists to be made.

Penalty for 1922 delinquencies remitted until October 1923. Penalty added.

Section 3. That the penalty of ten (10) per cent heretofore added to all taxes delinquent for the year 1922 is hereby remitted until the first day of October, 1923, at which time such penalty shall be added to all such taxes then remaining unpaid; provided that in all cases where such penalty has been paid on taxes delinquent for the year 1922, such penalty shall be refunded by the Board of County Commissioners or the City Council, as the case may be, upon claims filed therefor in the same manner as other claims are filed, as required by law; provided further, that no such claim for refund shall be allowed on any claim filed after June 1, 1923; provided further, that all delinquent taxes for the year 1922 shall bear interest at the rate of one per cent per month from November 30, 1922, until paid.

Refund of Penalty already paid.

No refund on claims filed after June 1-'23.

Interest on delinquent taxes for 1922.

HeinOnline -- 1923 1 1923

Section 4. That this Act shall take effect and be in full force from and after its passage and approval.

Approved Jan. 16, 1923.

CHAPTER 2.

An Act Regulating the Practice of Podiatry; Providing for the Examination and Licensing of Podiatrists and Penalties for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Podiatry Defined.

Section 1. Podiatry (sometimes called Chiropody) shall, for the purpose of this Act, mean the diagnosis, medical and surgical treatment of ailments of the human foot. Podiatrist shall mean one practicing Podiatry.

License Required.

Section 2. It shall be unlawful for any person to profess to be a Podiatrist, to practice or assume the duties incident to Podiatry, without first obtaining from the State Board of Medical Examiners a license authorizing the practice of Podiatry in this state, except as hereinafter provided. No Podiatrist shall amputate the human foot or toe or toes.

Amputation prohibited.

Members Board of Podiatry examiners.

Section 3. That at the annual meeting of the State Board of Medical Examiners it shall select two physicians from its own membership and two practicing Podiatrists, resident of this state and actively engaged in the practice of Podiatry, and graduate of an accredited school of Podiatry or Chiropody, who, together with the secretary of the State Board of Medical Examiners, shall constitute the Podiatry examiners for the year. The examinations shall be held semi-annually at such places and time as the State Board of Medical Examiners shall direct. All applicants for license shall have attained the age of twenty-one years and shall be of good moral character; they shall have had at least one year of instruction in and be graduates of some school of Podiatry, recognized as being in good standing by the State Board of Medical Examiners, but after July 1st, 1925, no school of Podiatry shall be accredited by said Board as a school of good standing which does not require for graduation a course of study of at least two years, provided, however, that all Podiatrists, actively engaged in the practice of Podiatry one or more years in the State of Montana, prior to July, 1923, whether graduates or not, shall,

Examinations held when.

Requirements.

Accredited school of podiatry.

HeinOnline -- 1923 2 1923

upon furnishing proof thereof to said Board and upon payment of a fee of Ten Dollars ($10.00), be entitled to a license without examination; and applications for such licenses shall be filed with the State Board of Medical Examiners not later than the first day of January, 1924; and provided, further, that upon payment of a fee of Twenty-five Dollars ($25.00), a license without examination may be issued to Podiatrists of other states maintaining equal statutory requirements for the practice of Podiatry and extending the same reciprocal privilege to this State.

Fee and license without examination. Filed when.

Reciprocal with foreign state license fee without examination.

Section 4. After the passage of this Act, any person not exempt from examination under Section 3 of this Act and desiring a license to practice Podiatry shall be examined in the following subjects: Anatomy, Chemistry, Dermatology, Diagnosis, Materia Medica, Pathology, Physiology, Therapeutics, Clinical and Orthopedic Podiatry, limited in their scope to the treatment of the human foot, and, if found qualified, shall receive a license. The minimum requirements for a license shall be a general average of seventy-five per cent (75%) in all the subjects involved, and not less than fifty per cent (50%) in any one subject. Examination fees of Twenty-five Dollars ($25.00) shall be paid to the secretary of the State Board of Medical Examiners. Any applicant failing in the examination and being refused a license shall be entitled within six months of such refusal to a re-examination, but two such re-examinations shall exhaust his privilege under the original examination.

Examination in what subjects.

Minimum requirements.

Examination fees: to whom paid.

Applicant entitled 2nd. Exam. When.

Section 5. All licensees shall be designated as Registered Podiatrists, and shall not use any title or abbreviations thereof without the designation "Registered Podiatrist, practice limited to the foot", and shall not mislead the public as to their limited professional qualifications to treat human ailments. All licenses shall be recorded in the manner of other medical licenses in the office of the secretary of the State Board of Medical Examiners. A renewal license fee of Five Dollars ($5.00) shall be paid annually on July 1st of each year, and if not paid within three months, the license shall be revoked and shall only be re-issued upon original application and payment of fee of Fifty Dollars ($50.00). All licenses shall be conspicuously displayed at the office or other places of practice.

Licenses to contain what.

Licenses Recorded where.

Renewal license.

Revocation of license when

Fee for restorations.

Licenses displayed where.

HeinOnline -- 1923 3 1923

Licenses obtained by fraud, etc. Power of board to grant, revoke or renew.

Section 6. The State Board of Medical Examiners may, after due hearing, refuse to grant, revoke or renew any license provided for in this Act to a person, otherwise qualified, who obtained said license by fraudulent presentation, for incompetency in practice, for use of untruthful or improbable statements to patients or in his advertisements, for habitual intoxication or for unprofessional and immoral conduct, or for selling or giving away alcohol or drugs for any other legitimate purposes, but said Board may re-issue a license after a lapse of six months.

Board may re-issue license when.

Fees and licenses paid to whom.

Section 7. All fees and licenses shall be paid to and collected by the secretary of the State Board of Medical Examiners, who shall at least quarterly each year pay the same to the State Treasurer, and the State Treasurer shall receive and accept such moneys and credit same to a special fund to be known and designated as "Medical Board Fund", and such fund shall not be used or expended for any purpose other than as provided for in Section 3124, Revised Codes of Montana, 1921.

Disposition of fees collected.

Compensation of what members of board.

Section 8. Each member of the Board of Examiners, except the secretary and the physician members who are otherwise paid for the performance of their duties as Medical Examiners, shall receive for his services out of the funds created by the payment of fees by applicants for licenses, the sum of Five Dollars ($5.00) per diem and necessary travelling and incidental expenses, while the secretary shall receive his necessary expenses for services which cannot be performed at the Capital. All printing, postage and other contingent expenses, necessarily incurred, shall be paid from said funds, and all expenses shall be itemized, verified, audited, upon presentation by the State Board of Medical Examiners, and a warrant drawn therefor by the State Auditor on the Medical Board fund in the same manner as other expenses of the State Board of Medical Examiners.

Payment of contingent expenses.

Claims to be audited, etc.

Paid from what fund.

Penalty.

Section 9. Any person who shall knowingly violate any of the provisions of this Act and upon conviction thereof shall be fined the sum not exceeding One Thousand Dollars ($1,000.00) or be imprisoned in the county jail not to exceed two years, or both.

Persons exempt from provisions of this act.

Section 10. This Act shall not apply to any physician licensed by the State Board of Medical Examiners of this State, nor to any practitioner licensed under Sections 3125 to 3154 of the Revised Codes of Montana for

HeinOnline -- 1923 4 1923

1921, nor to surgeons of the United States Army, Navy and United States Public Health Service, when in actual performance of their official duties.

Section 11. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 12. This Act shall be in full force and effect July 1st, 1923, after its passage and approval.

Approved January 30, 1923.

CHAPTER 3.

An Act Relating to the State Board of Equalization, Fixing the Terms and Salaries of the Members Thereof, Prescribing its Powers and Duties and Repealing Sections 113, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, and 2130 of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Board of equalization. Composed of whom.

Section 1. The State Board of Equalization, created by Article XII of the Constitution as amended shall be composed of three members to be appointed by the Governor by and with the advice and consent of the Senate.

Appointment of members.

The members of said board shall be appointed within ten days after the passage of this act, and before the adjournment of the present Legislative Assembly.

Terms of service.

The Governor shall designate the term of service of each member first appointed, so that the term of one shall end March 1st, 1925, of another March 1st, 1927, and of the third March 1st, 1929. Each succeeding member shall hold his office for a term of six years, and until his successor shall be appointed and shall have qualified.

Vacancies filled how.

Any vacancy shall be filled by appointment in accordance with the provisions of the constitution.

Succeeding appointments, when made.

Succeeding appointments, except when made to fill a vacancy, shall be made on or before the last day of January during the biennial session of the Legislative Assembly, next preceding the commencement of the term for which the appointment is made.

Qualification of members.

Section 2. QUALIFICATION AND COMPENSATION. The persons to be appointed as members of such board shall be such as are known to possess knowledge of the subject of taxation and skill in matters pertaining thereto.

HeinOnline -- 1923 5 1923

Members shall hold no other office.

No persons so appointed shall hold any other office under the laws of this state nor any other state, nor any office under government of the United States, or of any other state. He shall devote his entire time to the duties of the office and shall not hold any position of trust or profit, nor engage in any occupation or business interfering or inconsistent with his duties, or serve on or under any committee of any political party, or take part either directly or indirectly in any political campaign in the interest of any political party, or organization or candidate for office. Each member shall receive an annual salary of five thousand ($5000.00) dollars, payable in equal monthly installments. He shall also be paid his actual traveling and other expenses when away from the capital on official business.

Members shall devote entire time to duties.

Member not to serve on political committee.

Annual compensation

Expenses allowed when.

Organization.

Section 3. ORGANIZATION, QUORUM, SESSIONS. The members of said Board of Equalization first appointed, shall without delay, meet at the State Capital and shall organize and elect one of their members as chairman. A majority of said board shall constitute a quorum. It shall be in continuous session and open for the transaction of business every day except Sundays and legal holidays; and the sessions of said board shall stand and be deemed to be adjourned from day to day without formal entry thereof upon its records. The Board may hold sessions or conduct hearings and investigations at other places than the capitol when deemed necessary to facilitate the performance of its duties or to accomodate parties in interest.

Quorum.

Sessions.

Sessions may be conducted where.

"State Board" defined

Section 4. DEFINITIONS. (1) The term "State Board" or "Board" when used in this act without other qualification, shall mean the State Board of Equalization.

"Person" defined.

(2) The term "person", when used in this Act, shall mean and include any individual, firm, partnership, association or corporation unless otherwise expressly stated.

"Municipal Corporation;" "Municipality;" "Taxing unit;" defined.

(3) The phrase "municipal corporation" or "municipality" or "taxing unit" when used in this Act shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

HeinOnline -- 1923 6 1923

Experts, employees, etc., employment of.

Section 5. CLERKS, EXPERTS, RULES. Said Board may appoint a Secretary and employ such other persons as experts, assistants, clerks and stenographers, as may be necessary to perform the duties that may be required of it, and fix their compensation, provided, however, that the total expenses of such board shall not exceed in the aggregate during any fiscal year the amount appropriated for the Board for all purposes by the legislature for such year; and provided further that no experts, or assistants shall be employed by the said Board except after written approval of the Governor filed with the Board of Examiners. Said board may also require the assistance of any engineer in the service of any department of the State Government without additional compensation other than such as he is already receiving. The Secretary shall keep full and correct minutes of the transactions and proceedings of said board, shall have authority to administer oaths and perform such other duties as may be required of him.

Compensation.

Expenses not to exceed appropriation.

Employment of experts only on governor's approval.

Employment of engineer in service state government.

Secretary's record may administer oaths.

Rules.

The board may make all needful rules for the orderly and methodical performance of its duties as a Board of Equalization or otherwise and for conducting hearings and other proceedings before it.

Office kept where; expenses of.

Section 6. OFFICE EXPENSES. The Board shall keep its office at the capitol, and shall be provided with suitable and necessary offices and office furniture, printing, supplies, stationery, books, periodicals, and financial and commercial reports.

Transfer of records of former board.

Section 7. CONTINUITY OF ACTION OF FORMER BOARD. All records, books, documents, reports, and correspondence, received and kept by the former State Board of Equalization, and all other property in its possession, shall immediately, upon the organization of the new Board, be transferred to it for its use and convenience. The Board shall have and possess all the powers and authority and be subject to all the duties heretofore possessed by and imposed upon the former State Board of Equalization. The Board shall continue and complete any and all work undertaken or commenced and not completed by its predecessor. All acts of the former State Board of Equalization initiated and completed in whole or in part since the adoption of the constitutional amendment creating the new Board are hereby ratified and confirmed in such manner as to preserve the continuity of all action taken by the State Board of Equalization

Authority new board same as old board.

Continuity of action of former board.

HeinOnline -- 1923 7 1923

Salaries and expenses of members former board.

regarding taxation or any other duties imposed upon it relating to public revenue. The salaries and traveling expenses of assistants and clerks, formerly employed by the old Board, for services performed from the time of the adoption of the constitutional amendment until the organization of the new Board shall be paid as though the old Board had been continued in full force and effect until the organization of the new Board, and shall be paid out of the appropriation for such purposes made for the former Board.

Reports municipal corporations to new board.

Officers of municipal corporations heretofore required to make reports to the State Board of Equalization shall report to the Board hereby constituted.

Section 8. POWERS AND DUTIES DEFINED. It shall be the duty of the Board and it shall have power and authority in addition to any authority under the present statutes:

Rules and regulations, power to prescribe.

(1) To prescribe rules and regulations, not in conflict with the constitution and laws of the State of Montana, to govern County Boards of Equalization and the assessors of the different counties in the performance of their duties.

Forms, preparation of.

(2) To prepare and enforce the use of forms in relation to the assessment of property.

Assessment: railroads, telephone lines, transmission lines, ditches, etc.

(3) To annually assess the franchise, roadway, roadbeds, rails, and rolling stock, and all other property of all railroads, and the pole lines and rights-of-way and all other property of all telegraph and telephone lines, electric power and transmission lines, ditches, canals and flumes, and other similar property, constituting a single and continuous property operated in more than one county in the state, and to apportion such assessments to the counties in which such properties are located on a mileage basis; provided, however, that lots and parcels of real estate not included in right-of-way, with the buildings, structures, and improvements thereon, dams and power houses, depots, stations, shops, and other buildings, erected upon right-of-way, furniture, machinery, and other personal property, shall not be considered as a part of any such single and continuous property, but shall be considered as separate and distinct therefrom, and shall be assessed by the County Assessor of the County wherein they are situate.

Apportionment of assessments to counties.

Exceptions, single and continuous property.

Assessment by county assessor.

HeinOnline -- 1923 8 1923

Apportionment transmitted to county clerk.

(4) To transmit to the County Clerk of each county its apportionment of all assessments made by such board.

Authority to equalize valuation taxable property.

Supervise acts county assessors and boards, and change valuations.

(5) To adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of County Assessors and County Boards of Equalization; change, increase or decrease valuations made by county assessors or equalized by County Boards of Equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties between the different classes of property and between individual taxpayers.

General supervision over administration tax laws. assessors. boards, etc.

(6) To have and exercise general supervision over the administration of the assessment and tax laws of the state, and over assessors, county boards of equalization, boards of county commissioners, and other officers of municipal corporations, having any duties to perform under any of the laws of this state relating to taxation to the end that all assessments of property be made relatively just and equal at true value in substantial compliance with law, and to supervise the administration of all revenue laws of the State and assist in their enforcement, and for that purpose may visit each county in the state whenever deemed necessary, and may call, not to exceed one meeting of the county assessors each year at the capitol, for consultation and instruction, the expense of such attendance to be paid by the respective counties.

Supervision of all revenue laws.

May call annual meeting county assessors.

Expenses paid by whom.

Conference with officers Municipal corporations.

(7) To confer with, advise and direct officers of municipal corporations as to their duties, with respect to taxation, under the statutes of the state.

Direct prosecutions brought to enforce laws.

(8) To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officials and persons, or their agents, for failure or neglect to comply with the provisions of the statutes governing the revenue of the State or municipal corporations; and to cause complaints to be made against assessors and other public officers to the proper District Court for their removal from office for official misconduct or neglect of duty.

Complaints against assessors or others.

May Require assistance County attorneys in prosecution.

(9) To require County Attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishment

HeinOnline -- 1923 9 1923

for violations of the laws of the State in respect to the assessment of property and other revenue laws, in their respective counties.

Collection of information annually from municipal corporations.

(10) To collect annually from the proper officers of municipal corporations information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful and helpful in the work of the board in such form and upon such blanks as the board shall prescribe; and it shall be the duty of all public officers so called upon to fill out properly and return promptly to the board all blanks so transmitted and in every way aid the board in its work; to examine the records of all municipal corporations for such purposes as are deemed needful or helpful by the board.

Public officers must furnish information when requested.

Board may examine municipal corporation records.

When municipal officer fails to make report.

Board may cause examination.

(11) In its discretion, to inspect and examine, or cause an inspection and examination of the records of the officers of any municipality, whenever such officer shall have failed, neglected or refused to return properly the information required by this section within the time set by the board. Upon completion of such inspection and examination the board shall transmit to the Clerk, or other proper official of the municipality, a statement of the expenses incurred by the Board to secure the necessary information. A duplicate of such statement shall be filed in the office of the State Board of Examiners and when approved and allowed shall be paid the same as other expenses of the board. Within sixty days after the receipt by the municipality of the above statement, the same shall be audited, as other claims of the municipal corporation are audited and shall be paid into the State Treasury and if the same is not so paid the attorney general shall institute an action, in the proper court, against the municipality to recover the same.

Expenses of. Examination reported to municipality.

Duplicate statement filed where: Paid by whom.

Municipality to audit claim and pay to state treasury.

Officers of municipality liable for loss, when.

The officers responsible for the furnishing of the information collected pursuant to this section, shall be jointly and severally liable for any loss the municipality may suffer, through their delinquency; and no payment shall be made to them for salary, or on any other account, until the cost of such inspection and examination as provided above shall have been paid into the treasury, or to the proper officers of such municipality. They shall also be subject to such other fines and penalties as prescribed by law.

Not to receive salary, when.

Subject to other penalties.

HeinOnline -- 1923 10 1923

Persons required to give information regarding value of property etc.

(12) To require persons, as defined above, to furnish information concerning their capital, funded or other debt, current assets and liabilities, cost and value of property, earnings, operating and other expenses, taxes and all other facts which may enable the board to ascertain the value of the relative burdens borne by all kinds of property and occupations in the state.

May summon witnesses.

(13) To summon witnesses to appear and give evidence, and to produce records, books, papers and documents relating to any matter which the board shall have authority to investigate and determine.

Deposition of witnesses.

(14) To cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken upon notice to the interested party, if any, in like manner that depositions are taken in actions pending in the District Court, in any matter which the board shall have authority to investigate and determine.

Evasion: examination of cases of.

Ascertainment whether laws are ineffective, etc.

(15) To examine into all cases where evasion or violation of the laws for taxation of property, proceeds, occupation or business is alleged, complained of or discovered, and to ascertain wherein existing laws are ineffective or are improperly or negligently administered.

Investigation of tax systems, foreign states and report.

(16) To investigate the tax systems of other states and countries and to formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation and improvement in the system of taxation and the economical expenditure of public revenue in the state.

Conference with Governor.

(17) To consult and confer with the Governor of the State upon the subject of taxation, the administration of the laws relating thereto and the progress of the work of the board, and to furnish the Governor such assistance as he may require.

Report of board for governor and legislature.

Contents of report.

Recommendations.

(18) To transmit to the Governor and to each member of the Legislature twenty days before the meeting of the Legislature a report of the Board, showing all the taxable property of the State and the value of the same in tabulated form, with recommendations for improvement in the system of taxation, together with such measures as may be formulated for the consideration of the Legislature.

Further powers and duties.

(19) To exercise and perform such further powers and duties as are or may be granted to or imposed upon the board by law.

HeinOnline -- 1923 11 1923

Appeals: who may make.

Section 9. APPEAL TO STATE BOARD OF EQUALIZATION: Any person, firm or corporation or the Board in behalf of the State, or any municipal corporation, aggrieved by the action of any county board of equalization, may appeal to the State Board of Equalization by filing

How made.

with the County Board a notice of appeal, and a duplicate thereof with the State Board of Equalization, within five days after the action of the said county board, which

Contents of notice.

notice shall specify the action complained of, and the reasons assigned for such complaint. The State Board

Certification of minutes of county board.

may require the county board to certify the minutes of its proceedings resulting in such action, and all testimony taken in connection therewith and may hear further testimony and may consider the weight of the

Board may reverse or affirm action.

testimony already certified, and may reverse, modify or affirm the action complained of.

Notice of Intention to change assessment.

Section 10. NOTICE OF INTENTION TO CHANGE ASSESSMENT: When the State Board of Equalization shall contemplate making any change in the assessment of any property assessed to any particular person (except in

Exception.

a case where an appeal has been filed with the State Board) said board shall, before making any change in

Time and place of hearing.

such assessment, fix a time and place for a hearing thereon, and give to such taxpayer written notice of such hearing by registered letter deposited in the Post Office, post-

Notice given how.

Contents of notice.

paid, and directed to said taxpayer at his last known place of residence, at least ten days before the day fixed for such hearing. Such notice shall state the purpose of such hearing and the time and place when the same will be held.

Notice of change in assessed valuation.

When the State Board of Equalization shall contemplate raising or lowering the assessed valuation of any one or more classes of property in any county, it shall give notice of its contemplated action to the board of county

How made.

commissioners of the county in which such class or classes of property is situated, in such manner as it shall deem proper and sufficient, and shall fix a time and

Time and place for hearing.

place within the county in which such change of assessment is proposed for a hearing thereon; provided, however, that if the change affects one or more classes of

Procedure if more than one county interested

property common to more than one county the Board shall fix the time and place of hearing so as to accommodate the counties interested. At the time and place fixed for

Tax-payer may be heard when.

such hearing any tax-payer or any officer of any municipal corporation interested therein may appear and be heard.

HeinOnline -- 1923 12 1923

Assessment of omitted property.

Section 11. ASSESSMENT OF OMITTED PROPERTY. Whenever the State Board of Equalization shall, in any year, discover that any taxable property of any person has not been assessed in such year, or that it has been omitted from taxation during any previous year or years, the State Board may assess the same for such year or for such previous years. The order making the assessment shall contain the name of the person to whom the property is assessed, a general description of such property, its assessed valuation, the year for which it is assessed and the county in which the same is assessed. A copy of such order shall be transmitted to the officer of the county, in whose possession the assessment books of such county are at the time of the making of such order by the board, and such officer shall immediately after receiving such copy, enter the assessment on the tax books of the county for the year in which such order is made, and thereupon such assessment shall have the same force and effect as though originally made by the County Assessor; provided, however, that before making any such assessment the State Board of Equalization shall give the person to whom such property is proposed to be assessed, notice of its intention to make such assessment, and the time and place when a hearing will be had thereon; such notice to be given either by registered letter or personal service at least ten days before the date so fixed for such hearing; and provided further that all assessments of omitted property must be made within three years after the end of the calendar year in which the same should have been assessed.

Contents of order making assessment.

Copy of order transmitted to whom.

Duty of officer receiving order.

Assessment effective when.

Notice of intention to assess, given when.

How given.

3-year limit for assessment.

Statement of changes transmitted to co. clerk.

Section 12. STATEMENT OF CHANGES TO BE SENT TO COUNTY CLERK: The Secretary of the Board shall transmit to each County Clerk a statement of the changes made by the board in the assessment-book of the county, or any assessment contained therein, which shall be prima facie evidence of the regularity of all proceedings of the board resulting in the action which is the subject-matter of the statement.

Prima facie evidence of regularity.

Rate of state tax levy, determined when.

Section 13. DETERMINATION OF STATE RATE OF TAXATION—NOTICE OF. Between the first and third Mondays of August of each year, the board must determine the rate of state tax to be levied and collected upon the assessed valuation of the property in the state, which, after allowing twelve per cent for delinquencies in the collection of taxes, must be sufficient to raise the specific amount of the revenue required by the Legislative As-

12% delinquencies allowance.

Rate must be sufficient.

HeinOnline -- 1923 13 1923

Copy of rate transmitted to co. clerk.

Acknowledgment by co. clerk.

sembly for State purposes. The Board must immediately thereafter transmit to the County Clerk of each county a statement of such rate, and upon its receipt the County Clerk must, in writing, notify the State Board of Equalization thereof.

Penalty for refusal to furnish information.

20% added.

Notice to person assessed.

Action final.

Exceptions:

When information furnished within 20 days.

Board may change assessment.

Appeal within 60 days: made and filed where.

Bond requirement.

Determination by court of appeal.

When court finding upholds board.

When court finding is adverse to board.

Section 14. PENALTY FOR REFUSAL TO FURNISH INFORMATION. If any person shall refuse inspection of any books or records when requested by the board or its authorized agent, or shall refuse or neglect to furnish any information called for by the board in the performance of its official duties relating to the assessment and taxation of property the board shall make such determination and assessment of his or its property as in its judgment appears to be just and equitable, and may add to its assessment thus made not more than twenty per cent thereof as a penalty for such refusal or neglect. The board shall immediately notify the person so assessed of its action, either by registered mail or by personal service of such notice. Such action of the board and the assessment so made shall be final and conclusive unless the party so assessed, (1) Shall, within twenty days after receiving such notice, furnish all information requested by the board and show cause before the board why such assessment and penalty should be modified or annulled, when the board shall then from all information presented to it or from its own investigation make such assessment as to it seems just and equitable; or, (2) unless the party assessed shall within sixty (60) days after receiving such notice, appeal to the District Court of Lewis and Clark County from the action of the board in making such assessment and imposing such penalty by serving on the board and filing in the office of the Clerk of said District Court notice of appeal therefrom together with a bond conditioned for the payment of such amount as the judgment of said Court may require within thirty (30) days after the entry of such judgment. Upon the hearing of such appeal the Court shall determine whether the Board of Equalization was entitled to inspect such books or records, or was entitled to the information requested by the board, and if the court shall find that the board was entitled to inspect such books or records or was entitled to the information requested by the board, the court shall not change or modify in any manner the assessment as made or the penalty added to such assessment by the board but if the Court shall find that the board was not entitled to inspect such books or records,

HeinOnline -- 1923 14 1923

or was not entitled to the information requested by the board, then the Court shall enter a judgment changing and modifying the assessment made by the board by striking out the penalty added thereto by the board.

Entry of judgment.

Section 15. DUTIES OF PUBLIC OFFICERS. It shall be the duty of all public officers of the State and of any municipality to give to the board information in their possession relating to taxation when required by the board, and to co-operate with and aid the board in every manner in its efforts to secure a fair, equitable and just enforcement of the taxation and revenue laws of the State.

Public officers to co-operate with board.

Section 16. HEARINGS, WITNESSES, CONTEMPT, FEES AND SUBPOENAS. Oaths to witnesses in any investigation by the board may be administered by the secretary or a member of the board. In case any witness shall fail to obey any summons to appear before said board, or shall refuse to testify, or answer any material question, or to produce records, books, papers or documents when required to do so, such failure or refusal shall be reported to the Attorney General, who shall thereupon institute proceedings in the proper District Court to compel obedience to any summons or order of the board, or to punish the witness for such neglect or refusal. Any person who shall testify falsely in any material matter, under consideration by the board shall be guilty of perjury and punished accordingly. Witnesses attending shall receive like compensation as witnesses in the District Court. Such compensation shall be charged to the proper appropriation for the board.

Oaths administered by whom.

Failure to obey summons.

Report to atty general.

Institution of proceedings.

False testimony Penalty.

Compensation of witness

Section 17. SEAL. The State Board of Equalization shall have a seal and such seal shall have the following words engraved thereon, "Board of Equalization of the State of Montana". The board shall authenticate all of its orders, records and proceedings with such seal, and the Courts of this state shall take judicial notice of such seal.

Seal of board.

Section 18. UNCONSTITUTIONALITY OR INVALIDITY. If any clause, sentence, paragraph or part of this act shall for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the act, but shall be confined, in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

Invalidity of any clause of act.

HeinOnline -- 1923 15 1923

Caption of sections not to affect interpretation of act.

No caption of any section or set of sections shall in any way affect the interpretation of this act, or of any part thereof.

Sections repealed.

Section 19. REPEAL. Sections 113, and 2122 to 2130 inclusive of the Revised Codes of Montana of 1921, and all other acts and parts of acts in conflict herewith are hereby repealed.

Section 20. This act shall be in full force and effect from and after its passage and approval.

Approved February 2, 1923.

CHAPTER 4.

An Act to Authorize and Empower Boards of Trustees of School Districts to Establish Endowment Funds, Defining Same, Limiting the Uses Thereof, Providing for the Investment of Endowment Funds in Securities, and Defining the Duties of the County Treasurers with Relation Thereto, and Providing for Memorials to Patrons of Endowment Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

School dist. and trustees may accept devises, etc.

Section 1. All school districts and boards of trustees thereof on behalf of such districts are hereby authorized and empowered to accept gifts, legacies and devises, subject to the conditions imposed by the deed of the donor, or will of the testator, or without any conditions imposed. Any school district in the state may, by resolution of the Board of Trustees of such school district, establish a special fund to be known as "Endowment Fund."

Establishment of endowment fund.

"Endowment Fund" defined.

Section 2. The "Endowment Fund" shall consist of all donations by gift, devise, or bequest, not otherwise specified by the donor, devisor, or testator, in the deed of gift, or devise of any will or testament.

Investment of endowment fund.

Income only available.

Re-investment of principal and interest until accumulation of what amounts.

Section 3. The endowment fund, when established, shall be kept sacred to the children of the district, and shall be invested in such securities as will guard the same from loss, and only the income therefrom may be appropriated for any purpose; the income from the fund shall be added to the principal and re-invested, until the fund shall have reached the total sum of Fifty Thousand ($50,000.00) Dollars in districts of the first class, the sum of Twenty Thousand ($20,000.00) Dollars in dis-

HeinOnline -- 1923 16 1923

tricts of the second class, and the sum of Ten Thousand ($10,000.00) Dollars in districts of the third class; when the said fund in any district shall have reached the said sum according to its class, the income from the fund may be appropriated for school purposes in the district, or may be added to the principal fund and reinvested the same as the principal.

Income may be appropriated when.

Whenever any school district has been abandoned, and the territory comprising the same has been attached to a contiguous district, the endowment fund of such abandoned district shall be transferred and placed in the endowment fund in the district to which such territory is attached.

Disposition of fund of abandoned district.

Section 4. The County Treasurer shall be custodian of the endowment funds of school districts, and shall, with the consent and approval of the Board of Trustees of such district, invest the same in school district bonds of the district, or in bonds of other school districts within the state, when possible to do so, and when such funds can not be invested in such school district bonds, temporary investments of small amounts of such funds may be made in the securities of National or State Banks, and the bonds of such banks given to counties, for the protection of county funds, shall be held liable for the payment of any such temporary investment of such endowment fund. No portion of any such fund shall be loaned to the school district to which the same shall belong, nor shall any such fund be invested in the warrants of such district.

County Treasurer custodian of fund.

Must invest funds. how.

Fund may not be invested in own district.

Section 5. The County Treasurer shall keep the endowment fund of each school district separate and distinct from all other funds of the district, and shall keep a separate account of same, and shall keep the securities in which such fund is invested separate from all other securities held by him, and separate from the securities of other school district endowment funds in his custody. He shall be liable on his official bond for the endowment funds of school districts in his custody, and he shall, on or before the first day of July of each year account to the Trustees of each school district in the county having an endowment fund, showing the condition thereof and the securities in which the same is invested, and the income received therefrom during the year. He shall also include said funds in his reports to the Board of County Commissioners.

County treasurer to keep fund separate from other funds of district.

Liability on official bond.

Report to trustees when.

Report to board of county commissioners

HeinOnline -- 1923 17 1923

Memorials for donors.

Section 6. The Board of Trustees of any school district having an endowment fund shall provide suitable memorials for all persons or associations of persons making gifts to the school district which will by the provisions hereof become a part of the endowment fund of the district.

Section 7. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved February 6, 1923.

CHAPTER 5.

An Act Making Public Officers Personally Liable for Failure to Provide or Maintain Sinking Funds for Public Roads.

Be it enacted by the Legislative Assembly of the State of Montana:

Liability of officers, etc., for failure to provide sinking fund.

Section 1. That when any officer or officers or board or body of officers of any county, city, school district, irrigation district or other municipal or public corporation of the state are or shall be required by law to provide by a levy of taxes, or by certifying the amount of money required, or otherwise, a sinking fund or fund required to pay at maturity any bonds hereafter issued or created, such officer or officers and the members of such board or body of officers shall be jointly and severally liable to the county, city, school districts, irrigation district, or other municipal or public corporation which they represent if they shall fail to perform any such duties so required by law, as in this section hereby specified, in an amount equal to the sum which would have been added to such fund had they performed such duty. Provided: that when any such board shall fail or neglect to perform any such duty, no minority member of said board who shall have moved said board or voted in favor of a performance of such duty shall be held liable.

Exception for minority member, when.

Penalty for wrongful appropriation of fund.

Section 2. Any person or persons who shall take, use, appropriate or permit to be taken, used or appropriated any portion of any such fund as herein specified for any purpose other than that permitted by law shall be jointly and severally liable to the county, city, school district, irrigation district, or other municipal or public corporation to which said fund shall belong for the portion of such fund so unlawfully taken, used or appropriated.

HeinOnline -- 1923 18 1923

Section 3. It shall be the duty of the county attorney in each county to commence and prosecute all actions to enforce any liability hereby created. Such actions shall be tried as civil actions at law. Duty of county attorney.

Section 4. This act shall be in force and shall take effect from and after its passage and approval.

Approved Feb. 6, 1923.

CHAPTER 6.

An Act Relating to the Investment of the Permanent Common School Fund and of the Other Permanent Institution Funds of the State; Prescribing the Kinds of Securities in Which These Funds Shall Be Invested; Requiring Some of These Securities to Be Payable on the Amortization Plan; Authorizing the Converting of Bonds and Farm Mortgages Now Held by the State Into Amortization Bonds and Mortgages; and Amending and Re-enacting Sections 1928, 1930 and 1932 of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1928 of the Revised Codes of Montana of 1921 be and is hereby amended and re-enacted as Section 1928-A and Section 1928-B, reading as follows:

"Section 1928-A. All monies belonging to the permanent common school fund and to the other permanent state educational, charitable and penal institution funds must be safely invested by the State Board of Land Commissioners in bonds of school districts within the State of Montana; in bonds of the State of Montana or of the United States, in interest bearing warrants upon the General Fund of the state; in any state capitol building bonds of the State of Montana, now issued or which may hereafter be issued; in first mortgages on good improved farm lands in the State of Montana free from all prior liens and encumbrances; in bonds issued by federal farm loan banks, or in bonds of the several counties and cities of the State of Montana in the manner prescribed by law; provided, however, that all farm mortgages in which such investments are hereafter made, and all bonds issued in this state in which such investments are hereafter made. must be issued and payable on the amortization plan. The amortization plan is hereby de- Common school and similar monies to be invested how. Duty Board of land Commissioners. Amortization plan. Defined.

HeinOnline -- 1923 19 1923

fined, when applied to these investments and to state land contracts or certificates, as being that plan under which part of the principal is required to be paid each time interest becomes due and payable, and under which this part payment on the principal increases at each succeeding installment in the same amount that the interest payment decreases so that the combined amount due on principal and interest on each due date remains the same until the loan or bond is paid in full. Whenever these installments are payable annually, the due date shall be December 15th; when the installments are payable semi-annually the due dates shall be June 15th and December 15th. Provided, however, that in case there are not sufficient amortization bonds available to keep the permanent school and institution funds of the state invested, then, in such case, these funds may be invested in other forms of bonds."

Due date annual and semi-annual installments.

Procedure when amortization bonds not available.

"Section 1928-B. All bonds in which such permanent common school funds and the other permanent funds of the state are invested when this Act becomes effective, whether such bonds are due or not, may be converted into amortization bonds running for a period of time not exceeding twenty (20) years whenever the board or officers invested with the power to issue or re-issue such bonds have been duly authorized to issue amortization bonds and the State Land Board deems such change safe and advantageous to the State. The interest on these amortization bonds shall be fixed at such reasonable rate as the bond market may from time to time demand or justify and the State Board of Land Commissioners determine."

Conversion of bonds outstanding upon effect of this act.

Interest rate fixed how.

Section 2. That Section 1930 of the Revised Codes of Montana of 1921 be amended and is hereby amended and re-enacted to read as follows:

"Section 1930. All applications for loans of permanent common school or other permanent state educational, charitable, or penal institution funds, to be secured by mortgage on farm lands, shall be made to the register of State Lands as Secretary of the State Board of Land Commissioners and shall be made on forms approved by the Attorney General. It shall be the duty of the State Board of Land Commissioners to fill such applications for loans on farm lands as rapidly as such funds are available and in the order in which the abstracts of title submitted in connection with such applications are finally completed and approved by the Attorney General, pro-

Applications for loans, made to whom.

Duty state board land commissioners in filling applications.

HeinOnline -- 1923 20 1923

vided, however, that the applicant must be an actual farmer and that in passing on loan applications the State Board of Land Commissioners shall satisfy itself both in regard to the ampleness of the security and as to the character and earning capacity of the applicant. It shall reject any and all applications for loans that it may regard as unsafe or undesirable.

Applicant must be actual farmer.

Rejection of certain applications

Section 3. That Section 1932 of the Revised Codes of Montana of 1921 be amended and the same is hereby amended and re-enacted as Section 1932-A and Section 1932-B, reading as follows:

"Section 1932-A. All mortgages in which such funds are invested shall be in the name of the State of Montana as mortgagee; shall be payable on the amortization plan during a period of not more than thirty-five (35) years, and shall draw interest at the rate of six (6) per centum per annum; installments of principal and interest to be paid annually or semi-annually. Any loan may be paid in full before maturity, but if paid before the expiration of five (5) years from the date of the loan, a fee equal to one (1%) per cent of the original amount shall be required and paid before the mortgage is satisfied. If prepayment in full is made between five (5) and ten (10) years from the date of the loan, a fee equal to one-half (½) of one (1) per cent of the original loan shall be required. All payments shall be made to the Register of State Lands."

Mortgagee is state of Montana.

Plan, term and rate of interest.

Time of payment of installments

Loan paid before maturity.

Payments made to whom.

"Section 1932-B. All farm mortgages in which such funds are invested when this amendment becomes effective may be converted into amortization mortgages conforming to the requirements of Section 1932-A and other legal requirements, upon application by the mortgagor or his successor in interest, whenever the State Board of Land Commissioners deems such change safe and advantageous to the State. Provided, however, that no loan shall be made for more than forty (40) per cent, of the actual value of the land. The State Land Board may in its discretion include in the principal of the new loan delinquent interest and other liens and charges against the land covered by the mortgage, whenever such action is deemed to be for the best interest of the State. There shall be charged for converting the old farm mortgages into amortization mortgages the reasonable cost of such work to the State to be fixed by the State Board of Land Commissioners."

Conversion of mortgages outstanding upon effect this act.

Limited to 40% value of land.

Inclusion of delinquent interest, etc.

Cost of conversion.

HeinOnline -- 1923 21 1923

Section 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 5. This act shall take effect and be in full force and effect from and after its passage and approval.

Approved Feb. 6, 1923.

CHAPTER 7.

An Act to Establish a Game Preserve in a Portion of Lincoln County, for the Protection of Game Animals and Birds, to Be Known as Wolf Creek Game Preserve, and Providing Penalties for the Killing, Hunting, Trapping and Pursuing Any Game Animals or Birds in Such Preserve, or the Carrying of Firearms Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Wolf Creek game preserve.

Section 1. For the better protection and propagation of game animals and birds, the following described area in Lincoln County, State of Montana, is hereby set aside and established as a State Game Preserve, to be known as the Wolf Creek Game Preserve:

Boundary.

Beginning at the Northeast corner of Township Thirty-one (31) North, Range Twenty-six (26) West, in Lincoln County; running thence West to the summit of the divide between the Flathead River and the Kootenai River known as Pinkham Ridge; thence southerly along the summit of said divide to the south line of Township Thirty (30) North; thence East along the said Township line to the Southeast corner of Township Thirty (30) North, Range Twenty-six (26) West; thence North along the Horse Plains Guide Meridian, which is the line between Flathead and Lincoln Counties to the point of beginning.

Hunting etc. prohibited.

Section 2. It shall be unlawful for any person to hunt for, trap, capture, kill or take or cause to be hunted for, trapped, or killed any game animal or birds of any kind whatever, within the limits of said Preserve; or to carry or discharge any fire-arms, or to create any unusual disturbance tending to, or which may frighten or drive away any of the game animals or birds, or to chase the same with dogs or hounds in said Preserve; (provided, however, that permits to capture animals or birds for the purpose of propagation, or for scientific purposes, or to destroy mountain lions, wolves, foxes, coyotes, wild cats, mink or other predatory animals or birds,

Exceptions.

HeinOnline -- 1923 22 1923

or for carrying fire-arms, may be issued by the State Game Warden upon the payment of such fee, and in accordance with such regulations as may be established for said Preserve by the State Game and Fish Commission.) Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five ($25.00) Dollars, nor more than One Hundred ($100.00) Dollars, or by imprisonment in the County Jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment. Penalty.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 9, 1923.

CHAPTER 8.

An Act Providing for the Participation of Policy Holders in the Election of Directors of Corporations Organized in This State for the Transaction of the Business of Life Insurance Upon the Stock Plan, and Repealing Any and All Acts or Parts of Acts in Conflict Therewith, and Providing for This Act Becoming Effective Upon Its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The by-laws of corporations organized in this State for the transaction of the business of life insurance upon the stock plan may provide a plan for policy holders participating with its stockholders in the election of its directors. By-laws may provide participation of policy holders in election of directors.

Section 2. Any by-law so adopted at any regular or special meeting of the stockholders may thereafter be extended in its terms, but shall not be curtailed or revoked. By-laws may be extended but not revoked.

Section 3. All laws or parts of laws inconsistent or in conflict with the provisions hereof be and the same are hereby repealed.

Section 4. This Act shall be in effect from and after its passage and approval.

Approved Feb. 9, 1923.

HeinOnline -- 1923 23 1923

CHAPTER 9.

An Act to Amend Section 6036 of the Revised Codes of Montana, 1921, Relating to Liability of Stockholders in State Banks and Providing Means for Paying and Collecting Said Liability.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6036 of the Revised Codes of the State of Montana, 1921, be and the same is hereby amended to read as follows:

Liability of bank stockholders.

"Section 6036. The stockholders of every bank shall be severally and individually liable, equally and ratably, and not one for the other, for all contracts, debts, and engagements of such corporation, to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares. No person holding stock as executor, administrator, guardian, or trustee, and no person holding such stock as a pledge or collateral security, shall be personally subject to any liability as stockholder in such corporation; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estate and funds in the hands of such executor, administrator, guardian, or trustee, shall be liable in like manner and to the same extent as the testator, intestate, ward, or the person interested in such trust fund would have been liable if he had been living or competent to act and hold the stock in his own name.

Executor, etc., exempted from personal liability.

Person pledging stock and estate of deceased liable.

Receiver may institute suit when.

In cases where a bank is liquidated by a court through a receiver, the receiver may by order of the court institute and maintain appropriate suits or actions in the courts of this state on behalf of the creditors of the bank against stockholders for the recovery and collection of stockholders' liability. Any money paid to the receiver by a stockholder, in whole or partial satisfaction of his liability, shall not be deemed paid voluntarily, but shall give the stockholder the same protection, to the extent of the amount paid, as if the payment were made after suit brought by the receiver. The receiver is authorized and empowered to receive and receipt for any and all amounts due and collected from stockholders, and shall from time to time, under order of the court, distribute the amounts so collected without diminution to the creditors of the bank in this section enumerated."

Monies paid to receiver by stockholder.

Duties of receiver.

HeinOnline -- 1923 24 1923

Section 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 13, 1923.

CHAPTER 10.

An Act Providing for the Amortization Plan of Payment for State Lands; Setting Forth the Contents of Certificates of Purchase; Authorizing Certificates of Purchase Now Outstanding to Be Converted Into New Amortization Certificates, and Amending and Re-enacting Section 1860 and 1861 of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1860 of the Revised Codes of Montana of 1921 be amended and re-enacted to read as follows:

"Section 1860. The purchaser of State Lands, except timber lands, shall pay in cash on the day of sale such portion of the purchase price as he may desire, but not less, however, than fifteen per cent of the purchase price. The balance of the purchase price shall be paid on the amortization plan during a period of time not exceeding thirty-five (35) years, shall draw interest at the rate of five (5) per centum per annum, installments of principal and interest to be paid annually or semi-annually, as may be determined upon by the State Board of Land Commissioners. By amortization is hereby meant the plan of payment defined in Section 1928 of the Revised Codes of Montana of 1921 as amended by the Eighteenth Legislative Assembly. Payment may be made in full at any time before maturity."

Purchaser of state lands must pay 15 per cent on day of sale.

Balance by amortization plan.

Term and rate of interest.

Payments, when

Amortization, defined.

Payment in full.

Section 2. That Section 1861 of the Revised Codes of Montana of 1921 be amended and is hereby amended and re-enacted as Section 1861 A and Section 1861 B, as follows:

"Section 1861 A. Upon payment of fifteen per cent of the purchase price of the land bought, the Register of State Lands shall execute and deliver to the purchaser a certificate of purchase signed by himself and by the Governor, as President of the State Board of Land Com-

Duty of register of state lands.

HeinOnline -- 1923 25 1923

Certificate of purchase, contents of.

missioners. This certificate shall contain a description of the land, show how much has been paid thereon, how much remains unpaid, and the amount and due date of each and all installments of principal and interest to the time of maturity. A complete record of all such certificates shall be kept by the Register of State Lands.

Record of Certificates.

"Section 1861 B. Any certificate of purchase of state land issued and outstanding when this amendment takes effect, may be converted into an amortization certificate on the plan set forth in this act, and running for a period of time not exceeding thirty-five (35) years, upon application of the owner or holder thereof, if the State Board of Land Commissioners deem the issuance of such new amortization certificate safe and advantageous to the State. The said board may in its discretion include delinquent installments of principal and interest on the old certificate in the principal of the new certificate if such action appears to be for the best interest of the state and the permanent institution funds. The State Land Board shall collect a fee of two dollars and fifty cents ($2.50) for every such new certificate issued."

Outstanding Certificate Converted to amortization certificate, when.

Inclusion of delinquent installments.

Certificate fee.

Section 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 4. This act shall take effect and be in full force and effect from and after its passage and approval.

Approved Feb. 13, 1923.

CHAPTER 11.

An Act to Amend Sections 7147 and 7148 of the Revised Codes of Montana of 1921 Relating to the Apportionment of Fees and Expenses of Water Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 7147 of the Revised Codes of Montana of 1921, be, and the same is hereby amended to read as follows:

Duty of clerk of court to notify persons mentioned in report.

"Section 7147. Apportionment of Fees and Expenses. Upon the filing of the report by the water commissioner, or water commissioners, the Clerk of Court shall forthwith notify each person mentioned in such report, by registered letter containing return receipt to be signed by the addressee or his agent by mail, of the amount he is made liable for by such report, and that objections to

Contents of notification.

HeinOnline -- 1923 26 1923

such report, and the amount so taxed against him, may be made by any person interested therein, within twenty days after the date of the mailing of said notice, and unless objections thereto are filed an order will be made by the Judge of said Court finally fixing and determining the amount due from each of said water users. The affidavit of the Clerk that he has mailed a notice to each person mentioned in the report at such person's last known post-office address, in the usual manner, shall be deemed prima facie evidence that the person received the notice provided for in this section."

Order by judge of district court.

Affidavit of mailing by clerk. Prima facie evidence.

Section 2. That Section 7148 of the Revised Codes of Montana of 1921 shall be, and the same is hereby amended to read as follows:

"Section 7148. At the expiration of the twenty days notice as provided for in the preceding section, if objections to said report have been filed, or a motion to re-tax the same has been made, the Court or Judge shall fix a time for the hearing of such objections or motion to re-tax, which time of hearing shall be as soon as the Judge or a Court can conveniently hear the same. Any person objecting to said report shall be entitled to at least five day's notice of the date and time of such hearing. At such hearing the Court or Judge shall hear and determine the motion or objections, and shall make an order fixing and determining the amount found due from each of said water users to such commissioner or commissioners. In case no objections are filed within the twenty days as hereinbefore provided for, such order shall be made as a matter of course, and in either case said order shall be final determination of the matter."

Date of hearing fixed by judge when report filed or motion to retax entered.

Notice to persons objecting.

Hearing and orders by judge.

When no objection filed.

Section 3. This act shall be in force and effect from and after its passage and approval.

Approved Feb. 13, 1923.

HeinOnline -- 1923 27 1923

CHAPTER 12.

An Act Requiring Persons Operating Motor Cars or Vehicles to Stop After an Accident, and Requiring Such Persons Before Leaving the Place of Accident to Give Their True Names, Residences and License Number, and to Report the Same to Certain Officials, and Prescribing a Penalty for the Violation Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Duties of operators of motor vehicles when accident occurs on highways.

Section 1. In case of accident or injury to a person or persons or property on the public highways, due to the operation thereon of any vehicle, the person operating or driving shall stop, and upon request of the person or persons injured or whose property has suffered injury, or upon request of any other person present, must give his true name and correct place of residence, and the registration number of his vehicle, if it be a motor vehicle, and if such person operating or driving is not the owner thereof, the correct name and address of the owner of such vehicle. In the event the person injured or whose property has suffered injury, is unable to make such request, the driver of such vehicle must make such report as required by this act to the nearest sheriff's office or nearest office of chief of police within a period of twenty-four (24) hours after such accident has occurred or injury sustained.

Report to sheriff's office, when.

Penalty.

Any person violating the provisions of this act or failing to give the information as required by this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five ($25.00) dollars, or more than five hundred ($500.00) dollars, or not less than ten (10) days imprisonment or more than three months imprisonment or by both such fine and imprisonment.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved, Feb. 13, 1923.

HeinOnline -- 1923 28 1923

CHAPTER 13.

An Act to Amend Section 221 and to Repeal Section 6085 of the Revised Codes of Montana, 1921, Relating to Fees to Be Paid to Defray the Expenses of the State Examiner.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 221 of the Revised Codes of Montana of 1921, be, and the same is hereby amended so as to read as follows:

"Section 221. For the purpose of defraying the expenses incurred in pursuance of this chapter and of Chapter 13 of Part 3 of the Civil Code, the following fees shall be paid to the state treasurer for the general fund of the state:

Fees payable by counties (classified).

Each county shall pay a fee, on or before the first day of July of each year, according to its classification as follows:

Counties of the first class, seven hundred and fifty dollars each;

Counties of the second class, three hundred and fifty dollars each;

Counties of the third class, two hundred and fifty dollars each;

Counties of the fourth class, two hundred dollars each;

Counties of the fifth class, one hundred and fifty dollars each;

Counties of the sixth class, one hundred twenty-five dollars each;

Counties of the seventh class, one hundred dollars each.

Any counties hereafter created are to be deemed counties of the seventh class until an assessment of such county has been made and the class thereof determined.

Fees payable by banks, and loan companies.

Each bank, banking corporation, savings bank, investment and loan company, subject to supervision of the superintendent of banks under the laws of this state, shall pay a fee to the state treasurer, on or before the first day of November, in each year, according to its capitalization at the following rates:

Capital stock up to twenty-five thousand dollars inclusive, fifty dollars.

Capital stock over twenty-five thousand dollars and less than fifty thousand dollars, seventy-five dollars.

HeinOnline -- 1923 29 1923

Capital stock from fifty thousand dollars to seventy-five thousand dollars inclusive, one hundred dollars.

Capital stock over seventy-five thousand dollars and to one hundred thousand dollars, one hundred and fifty dollars;

Capital stock over one hundred thousand dollars and to two hundred thousand dollars, two hundred dollars;

Capital stock over two hundred thousand dollars and less than three hundred thousand dollars, two hundred and fifty dollars;

Capital stock three hundred thousand dollars and over, three hundred dollars.

Fees payable by building and loan associations.

Each building and loan association subject to examination by the State Examiner shall pay a fee to the state treasurer, on or before the first day of November, in each year, of one-twentieth of one per centum of its assets, as shown by its last annual statement; provided,

Fees limited.

that no such fee shall be less than twenty dollars, nor more than fifty dollars for a domestic association, nor more than two hundred dollars for a foreign corporation."

Section 2. That Section 6085, Revised Codes of Montana, 1921, be, and the same is hereby repealed.

Balances at close fiscal year 1923 to general fund.

Section 3. All moneys in the State Examiner Fund at the close of the fiscal year ending June 30th, 1923, after all expenses incurred during such fiscal year and payable out of such fund have been paid, and all moneys in the State Banking Fund at the close of such fiscal year, after all expenses incurred during such fiscal year and payable out of such fund have been paid, shall be transferred and paid over to the general fund of the state.

Section 4. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Section 5. This Act shall be in full force and effect on and after July 1st, 1923.

Approved Feb. 13, 1923

HeinOnline -- 1923 30 1923

CHAPTER 14

An Act to Amend Section 1215 of the Revised Codes of Montana of 1921, Relating to the Time County Assessor to Report Valuation School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1215 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

"Section 1215. COUNTY ASSESSOR TO REPORT ASSESSED VALUATION. SCHOOL DISTRICTS. It shall be the duty of the County Assessor in each county in the state to make a report to the County Superintendent of Schools within his county on or before the twentieth day of July of each year giving the assessed valuation of the several school districts of the county for that year."

Duty of county assessor to report valuation when.

Section 2. That all Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 14, 1923

CHAPTER 15.

An Act to Amend Section Three (3), of Chapter 144, of the Acts of the Sixteenth Legislative Assembly of the State of Montana, Relating to Judges of the Sixteenth Judicial District.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3, of Chapter 144, of the Laws of the Sixteenth Legislative Assembly be amended to read as follows:

"Section 3. That after the appointment, provided for in this Act of an additional Judge for the Sixteenth Judicial District, the residence of the Judges of said Sixteenth Judicial District shall be as prescribed by law for the residence of District Judges."

Residence judges 16th district.

Section 2. That this Act shall be in effect from and after it is passed and approved.

Approved Feb. 16, 1923

HeinOnline -- 1923 31 1923

CHAPTER 16.

An Act Authorizing Cities and Towns to Include Unplatted, Undedicated or Unsurveyed Lots, Pieces or Parcels of Land Lying Wholly Within the Boundaries of the City or Town Within Special Improvement Districts and to Assess Same for Its Proportionate Share of the Cost of Making or Maintaining Special Improvements in the Same Manner as Other Property Within the Boundaries of Such City or Town.

Be it enacted by the Legislative Assembly of the State of Montana:

Unplatted lands may be included in special improvement district when.

Section 1. That whenever any unplatted, undedicated or unsurveyed lot, piece or parcel of land that separates one platted part of the city from another platted part of said city, lying wholly within the boundaries of any city or town, except land owned by the United States, shall abut or border upon any special improvement district, or be included within the boundaries of any special improvement district of such city or town, the council of such city or town may cause the same to be included within and made a part of such special improvement district, in the same manner as other property within such special improvement district and may assess the same for its proportionate share of the cost of making or maintaining such improvements in the same manner as other property within such special improvement district.

Assessment of unplatted lands.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be and become in full force and effect from and after its passage and approval.

Approved Feb. 16, 1923

CHAPTER 17.

An Act Amending Section 5266 of the Revised Codes of Montana of 1921, Relating to the Contract for Maintenance of Lights in Lighting Districts and the Assessment to Pay the Cost Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5266 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

HeinOnline -- 1923 32 1923

"Section 5266. Contract for Maintenance of Lights —Assessment to Pay Cost. The lights in each district shall be maintained by contract for such period of time and in such way or manner as the city or town council shall elect: provided, however, that the city or town council shall not let a contract for a period to exceed three years. It shall be the duty of the city or town council to estimate, as nearly as practicable, the cost of maintaining such lights and furnishing electrical current therefor each year, and the proportion thereof to be assessed against the abutting or other property, including any such street or other railway, and before the first Monday in October pass and finally adopt a resolution levying and assessing said property, including any such street or other railway within said district with an amount equal to the proportion of the cost of such maintenance and electrical current so determined to be specially assessed against said property. Said resolution levying and assessing said portion of the cost of maintenance, and for furnishing electrical current therefor, shall be prepared and certified to in the same manner as the resolution provided for in the preceding section, and the same notice and hearing shall be given thereon. and shall be adopted and certified, and the assessment collected, in the same manner. as nearly as may be, as in the case of the resolution provided for in the preceding section. All moneys derived from the collection of the assessment provided for in such resolution shall be paid into a fund known as "Special Improvement Lighting District No. ——— Maintenance Fund" and the number of which shall correspond with the number of the lighting district, for the maintenance of and the supplying of electrical current for which the tax is levied. and such fund shall be used to defray the expense of maintaining and furnishing electrical current for the lights in said district, and for no other purpose. Provided, however, that the city or town council shall have the power not more than once in a year to change by resolution the boundaries and number of any maintenance district. Any special assessment levied and made for any purpose aforesaid, together with all costs and penalties, shall constitute a lien upon and against the property upon which assessment is made and levied, from and after the date of the final passage and adoption of the resolution levying the same; which lien can only be extinguished

Lighting maintained by contract.

Limit of contract by city council.

City council to estimate cost of maintaining lights.

Resolution assessing property, adopted when.

Resolution certification of.

Notice and hearing.

Collection of assessment.

"Special improvement lighting district No. .... maint. fund."

Fund used for what.

District boundaries changed when.

Levy constitutes lien.

HeinOnline -- 1923 33 1923

by payment of such assessment, with all penalties, costs. and interest."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be and become in full force and effect from and after its passage and approval

Approved Feb. 16, 1923.

CHAPTER 18.

An Act to Amend Section 1023 of the Revised Codes of Montana of 1921 Relating to the Creation of New School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1023 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

"Section 1023. No school districts shall be created, nor boundaries changed, between March 1st and July 1st of any calendar year."

Section 2. All acts and parts of acts in conflict with this act are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved Feb. 16, 1923.

CHAPTER 19.

An Act to Amend Sections 1280 and 1282, Revised Codes of 1921, Providing for the Distribution of the County High School Tax and Providing What Pupils Shall Be Included in Determining Attendance.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1280 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

County high schools as accredited school may share county high school monies.

"Section 1280. In any county where a County High School has been established, any school district which maintains high school classes, duly accredited by the State Superintendent of Public Instruction shall be en-

HeinOnline -- 1923 34 1923

titled on such accredition to share in all county high school moneys levied and collected for maintenance, and the money derived from such levy shall be apportioned by the county superintendent of schools to the several accredited high schools in the county, according to the average daily attendance in accredited high school classes for the school year next preceding as determined by the said county superintendent. In making the apportionment provided for in this section, the attendance of all High School pupils residing in the county, in which the high school is located, shall be included without regard to residence in the particular district where the pupil attends."

Monies apportioned how.

Apportionment and attendance determined how.

Section 2. That Section 1282 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

"Section 1282. Attendance at any high school, to whose support such money is apportioned in accordance with the provisions of this Act, shall be free to all eligible pupils residing in the county in which such accredited high school is located."

Attendance free to eligibles.

Section 3. No attendance of a high school student outside of the county of his residence shall be counted in determining attendance, except, in cases where a high school student by reason of convenience to his place of residence or by reason of employment, and for reason of Vocational Training not otherwise available attends a high school in another county, and such attendance is approved by the county superintendent of schools of the county of his residence; the county commissioners of said county are authorized, in their discretion, to direct the county treasurer to pay over to the school district or county high school where the pupil attends a proportionate share of the high school tax levied in said county, the amount to be determined in the manner in which the distribution of high school funds is made in the county in which the students concerned reside.

Attendance not counted when.

Exceptions.

Duty of county commissioners for payment of tax to school district.

Determination of amount.

Section 4. The distribution provided for by this Act shall apply to undistributed taxes collected for the year 1922, and thereafter.

Act applies to undistributed taxes 1922 and after.

Section 5. All Acts and parts of Acts in conflict herewith are repealed.

Section 6. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 16, 1923.

HeinOnline -- 1923 35 1923

CHAPTER 20.

An Act Amending Section 6124 of the Revised Codes of Montana of 1921, Relating to Certain Duties of the State Auditor and Commissioner of Insurance.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6124 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

Duty of Commissioner of insurance to suspend licenses.

"Section 6124. Whenever it shall appear to the satisfaction of the Commissioner of Insurance after a hearing before him upon notice, that any company, officer, agent, solicitor or helper has violated any provision of this Act, he shall suspend the license of any such company, officer, agent, solicitor or helper to transact business in this state for a period of sixty (60) days for the first offense, and for a period of from not less than one year to not more than three years in the discretion of the Commissioner of Insurance, for the second or any additional offenses, and no other license shall be issued to any such company, officer, agent, solicitor, or helper during the period of suspension, as the case may be.

Period of suspension.

Insurance commissioner may prescribe rules and regulations.

The Insurance Commissioner is hereby given power to do all things necessary and convenient for carrying into effect the laws of this State governing insurance companies and may from time to time promulgate necessary rules and regulations for the better protection of the insuring public."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in effect from and after its passage and approval.

Approved Feb. 16, 1923.

CHAPTER 21.

An Act to Amend Sections 4614 and 4622 of the Revised Codes of Montana, 1921, Relating to County Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 4614 and 4622 of the Revised Codes of Montana, 1921, be, and the same are hereby, amended so as to read as follows:

HeinOnline -- 1923 36 1923

"Section 4614. REFUNDING BONDS. The Board of County Commissioners of any county is hereby vested with the power and authority to issue and negotiate, on the credit of the county, coupon bonds to an amount sufficient to enable the county to fund all legal outstanding warrants, orders or bonds; or for the purchase of necessary public building sites, and for the construction of necessary public buildings, public highways and bridges; for the ordinary and necessary expenses of the county authorized by the general laws of the State; and also for the purpose of enabling any county to liquidate its indebtedness to another county incident to the creation of a new county or the change of any county boundary lines; not exceeding, in the aggregate, including outstanding bonded indebtedness, five per centum of the per centum of the assessed value of the property upon which taxes are levied and paid within such county, to be ascertained by the last assessment for state and county taxes previous to the issuing of such bonds; provided, however, that no such bonds, except bonds to refund outstanding bonds heretofore issued, shall be issued, negotiated or sold for any purpose whatever, or exchanged for outstanding warrants, orders or bonds, except for the purpose of enabling a county to fund its outstanding warrants or orders issued to liquidate its indebtedness to another county incident to the creation of a new county or the change of any county boundary lines, without the approval of a majority of the electors of such county voting at an election at which the question of issuing and selling or exchanging such bonds shall be submitted to the electors of such county, and which election shall be held in accordance with the provisions of Sections 4719 to 4722, inclusive, of the Revised Codes of Montana, 1921, and shall be governed and controlled thereby. Such bonds shall not be sold or exchanged at a price less than par value thereof, and no brokerage, legal or other fees or commissions of any kind shall be paid any person or corporation for negotiating or assisting in the preparation or sale or exchange thereof. The words "outstanding bonds heretofore issued" as herein used shall not be construed to include "outstanding warrants."

County Commissioners authorized to issue coupon bonds for what purposes.

Limitation.

Percentage obtained how.

Bonds may be issued only for what purpose.

Approval of electors required.

Election held when.

Bonds not to be sold at less than par.

Definition.

Provided, however, that nothing contained in this act shall be so construed as to make it unlawful to issue amortization or serial bonds without a vote of the people for the purpose of retiring bonds or warrants outstanding

Act does not prevent issue of amortization bonds. When.

HeinOnline -- 1923 37 1923

when this act becomes effective, so long as such bonds or warrants, when added to all other outstanding indebtedness, does not exceed five per centum of the assessed valuation of the county issuing the same.

Interest rate: fixed by whom.

Such bonds shall bear interest at such rate as shall be fixed by the Board of County Commissioners, but not exceeding six per centum per annum, which interest shall be represented by interest coupons payable semi-annually on the first days of January and July in each year, and

Payment of bonds, how.

such bonds shall be paid and redeemed in equal annual installments; the amount thereof to be paid and redeemed

Anount to be redeemed each year determined how.

in each year to be determined by dividing the total amount of bonds to be issued by the total number of years throughout which the installments are to be paid; provided, however, that if the date of issue of the bonds

Procedure where date of bonds is prior to tax levy.

shall be prior to the date of the county tax levies for the year in which the bonds are issued the first interest on all bonds shall be paid, and the first installment of bonds shall be paid and redeemed on the first day of January in the year following the year in which the bonds are issued, but if the date of issue of the bonds

When bonds dated after county tax levy.

shall be after the date of the county tax levied for the year in which the bonds are issued, then the first interest on all of the bonds shall be paid and the first installment of the bonds shall be paid and redeemed on the first day of January in the second year following the year in which the bonds are issued; and provided further, that

Life of bonds limited.

no bonds shall be issued for a longer period than twenty years, and that all bonds remaining unpaid may be paid

May be redeemed after 5 years.

and redeemed at any time after the expiration of five years from their date of issue, provided such time and option be stated upon the face of such bonds."

"Section 4622. TAX—BOND FUND. The Board of

County Comr.'s must levy tax for bond fund.

County Commissioners of every county which may hereafter issue any bonds for any purpose, at the time of making the levy of taxes for county purposes, must levy a tax for that year, in addition to all other taxes, upon all taxable property in the county, for the payment of interest on and the payment and redemption of such bonds and such levy must be high enough to raise an amount

Bond fund must be sufficient to pay interest and principal due.

sufficient to pay the interest becoming due on all such outstanding bonds during the current fiscal year and such portion of the principal thereof as is to become due during the current fiscal year, if any, and in any event

Levy must be sufficient to establish sinking fund.

such levy must be high enough to raise an amount sufficient to pay all interest becoming due on all such out-

HeinOnline -- 1923 38 1923

standing bonds during the current fiscal year and to place in the bond sinking and interest fund an amount equal to a sum produced by taking the whole amount of the principal of the bonds outstanding and dividing such amount by the number of years such bonds have to run before their maturity; and all money so levied, when collected must be paid into the county treasury and deposited to the credit of a fund to be known as the bond sinking and interest fund, and shall be used for the payment of the interest on and the principal of such bonds and for no other purpose whatever, and the County Treasurer shall open and keep in his books a separate and special account thereof which shall at all times show the exact condition of such fund; provided, that any money now standing to the credit of any interest fund or bond fund received from taxes heretofore levied and collected for the purpose of paying the interest on or principal of any outstanding bonds issued by a county shall be transferred to and become a part of the bond sinking and interest fund of such county.

Bond sinking and interest fund.

County treasurer must maintain special account.

Interest or bond funds now existing are transferred.

If the Board of County Commissioners of any county shall fail to make a levy in any year sufficient to raise the amount necessary for the payment of interest on and principal of outstanding bonds or the creation of a sinking fund as herein provided, the holder of any bond, or any tax-payer paying taxes on property situated in such county, may apply to the District Court of the county issuing such bonds for a writ of mandate to compel the Board of County Commissioners of such county to make a sufficient levy for such purposes, and if, upon the hearing of such application, it shall appear to the satisfaction of the Court that the Board of County Commissioners has failed to make any levy whatever, or has made a levy but that the same is insufficient to raise the amount required to be raised under the provisions of this section, the Court shall determine the amount of such deficiency and shall issue a writ of mandate directed to and requiring the Board of County Commissioners of such county, at the next meeting thereof for the purpose of fixing and making tax levies for county purposes, to fix and make a levy against all taxable property in such county sufficient to raise the amount of such deficiency, which levy shall be in addition to the levy required to be made for the then current fiscal year; provided, that any costs which may be allowed or awarded the petitioner in any such proceeding shall be paid by

Failure of county comr.'s to make levy.

Application to dist. court by bond holder for writ of mandate.

Duty of court to determine deficiency and issue writ.

Writ shall direct what.

Costs assessed to board of county comr.'s.

HeinOnline -- 1923 39 1923

the members of such Board of County Commissioners and shall not be a charge against such county."

Board co. Comrs. may issue amortization bonds.

Section 2. Provided, however, that nothing herein shall be construed to prevent Boards of Commissioners from issuing amortization bonds if authorized to do so by law.

Section 3. This act shall be in full force and effect from and after the first day of May, 1923.

Approved February 20, 1923.

CHAPTER 22.

An Act to Prohibit Possession of and Traffic in Lophophora Williamsii or Peyote (Pellote) and Agava Americana (Sometimes Known as Mescal Buttons) and Providing Penalties for Its Violation.

Be it enacted by the Legislative Assembly of the State of Montana:

Possession or sale of Peyote or Agava Americana forbidden.

Section 1. That it shall be unlawful for any person, firm, corporation or association to sell, furnish, or give away, or offer to sell, furnish or give away, or to have in his or its possession Peyote (Pellote), botanically known as Lophophora Williamsii; or Agava Americana, commonly known as the Mescal Button; or any compound, derivative, or preparation thereon.

Penalty.

Section 2. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed five hundred ($500.00) dollars, or imprisonment in the County Jail for a period of not to exceed six months, or by both such fine and imprisonment.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved Feb. 24, 1923.

HeinOnline -- 1923 40 1923

CHAPTER 23.

An Act to Amend Section 8291 of the Revised Codes of Montana, 1921, Relating to Selling or Removing Mortgaged Property to Defraud Mortgagees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 8291 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended so as to read as follows:

"Section 8291. Every person who, after mortgaging any personal property or having executed a conditional sale contract or agreement under the terms of which the title to said property remains in the vendor, except locomotives, engines, rolling stock or a railroad, steamboat machinery and vessels in actual use, removes or causes to be removed, or permits the removal of any such property during the existence of the lien thereon created by such mortgage, or while title to said property remains in the vendor, from the county where said property was situated at the time of the execution of such mortgage or such conditional sale contract or agreement; or, in case of a mortgaged crop, from the land on which the same was grown, or sells or removes said property or crop, or any part thereof, without the consent in writing of the mortgagee or vendor first had and obtained shall be guilty of a misdemeanor, but if such sale be made or removal had with intent to deprive the mortgagee or vendor of his claim thereto or interest therein, such person shall be guilty of larceny and shall be punished in the same manner and to the same extent as for larceny of the property so removed or disposed of."

Removal or sale of mortgaged property without consent of mortgagee or vendor a misdemeanor.

Removal or sale with intent to defraud, is larceny.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved Feb. 24, 1923.

HeinOnline -- 1923 41 1923

CHAPTER 24.

An Act to Provide County Assistance for the Shooting Poisoning and Trapping of Rodents in Control Districts Established by the State Board of Entomology for the Control of Rocky Mountain Spotted Fever; Providing for the Appointment of Persons and Purchase of Material Therefor; Providing for the Payment of the Expense and Authorizing the Levy of a Tax Therefor; and Defining the Term "Rodents."

Be it enacted by the Legislative Assembly of the State of Montana:

Board of county comm'rs. may appoint person to kill rodents when.

Section 1. The Board of County Commissioners of any county of this State, when there are within the limits of such county any lawfully established control districts of the State Board of Entomology for the control of Rocky Mountain Spotted Fever are hereby authorized and empowered, upon the request of said State Board of Entomology or its duly authorized representative in such county, to appoint any suitable person or persons, whose duty it shall be to shoot, poison, trap or to otherwise catch or kill rodents within the limits of such control districts, and any person so appointed is hereby empowered and directed to enter upon any farm, railroad right of way, grounds or premises infested with rodents and located within the limits of such control districts. and to shoot, poison, trap or to otherwise catch or kill such rodents. It is further prvided that any person so appointed shall work under the direction of the State Board of Entomology or its duly authorized representative in any county concerned.

Authority of such appointee. To enter upon any lands.

Appointee under supervision. Entomologist.

Board may create "spotted fever control fund" how.

Section 2. The Board of County Commissioners in any county in which there are any such control districts may create a "Rocky Mountain Spotted Fever Control Fund," either by appropriating money from the general fund of the county or at any time fixed by law for the levy and assessment of taxes, levy a tax not exceeding one-half mill on the dollar of assessed valuation, upon all property in the county, the proceeds of which shall be used solely for the purpose of providing for the shooting, poisoning, trapping or otherwise catching or killing of rodents in said county. The fund to be provided, to be raised in accordance with this section, shall be demoninated the "Rocky Mountain Spotted Fever Control Fund," and shall be kept separate and distinct by the

Fund used how.

"Rocky Mt. spotted fever control fund" defined.

HeinOnline -- 1923 42 1923

County Treasurer, and shall be expended by the Board of County Commissioners, and at such times and at any place in the county, and in such manner as is desired by the State Board of Entomology to secure the abatement or extermination of rodents which are hosts of any tick transmitting Rocky Mountain Spotted Fever,

Report and compensation of appointee.

Section 3. Any person appointed by the Board of County Commissioners under the provisions of this act shall at the end of each month, make a sworn statement to the county of the time expended in shooting, poisoning, trapping or otherwise catching and killing rodents, exclusive of time going to and returning from work, and such person shall be paid at the rate not to exceed three dollars and fifty cents ($3.50) per day of eight hours.

County com'rs. may purchase materials necessary.

Section 4. The Board of County Commissioners of any county may, from time to time, purchase such quantities and amounts of poisons, traps or other materials as may be necessary to carry out the provisions of this act to shoot, poison, trap or otherwise catch or kill rodents in any Rocky Mountain Spotted Fever control districts of the State Board of Entomology within the limits of the county concerned.

"Rodents" defined.

Section 5. The term "Rodents" as used within the limits of this act shall include such rodent or rodents as are known to be hosts of any tick which transmit Rocky Mountain Spotted Fever and are required to be exterminated by those regulations of the State Board of Entomology which are in force in any county concerned in the year during which the appropriation shall be made.

Repealing Clause.

Section 6. All acts or parts of acts in conflict herewith are hereby repealed; provided, however, that except as herein otherwise specified this act shall be construed as supplemental to and a part of all laws of this State relating to the control of Rocky Mountain Spotted Fever.

Act supplemental to existing laws regulating spotted fever.

Section 7. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 24, 1923.

HeinOnline -- 1923 43 1923

CHAPTER 25.

An Act to Amend Sections 4502, 4503 and 4504 of the Revised Codes of Montana of 1921 Relating to Insect Pests, and Providing the Method of Paying the Expense of Insect Pest Extermination.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4502 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Compensation laborers in extermination insect pests.

"Any person so appointed under the provisions of this Act shall receive as compensation the sum of not less than Two Dollars and Fifty Cents ($2.50), or more than Four Dollars ($4.00) per day for eight hours labor performed in poisoning, killing, catching and exterminating such insect pests exclusive of time going to and returning from such work. Such person shall make a sworn statement to the county of the time put in and the poison or other means used, which said statement shall be attached to the bill or claim against the county, and warrants in payment thereof drawn on the General Fund."

Affidavit of labor.

Claim paid how.

Section 2. That Section 4503 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

Board of county com'r's. may purchase equipment.

"The Board of County Commissioners of any county may, from time to time, purchase such quantities and amounts of poisons, traps and other equipment necessary to carry out the provisions of this Act to poison, kill, catch or exterminate such insect pests, and warrants in payment thereof shall be drawn on the General Fund."

Warrants paid how.

Section 3. That Section 4504 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

Board of county commr's. shall levy tax for insect extermination.

"The Board of County Commissioners shall annually determine the amount of such warrants drawn on the General Fund for the purposes of this Act, and the succeeding year, shall levy a tax for the purpose of insect pest extermination sufficient in amount to reimburse said General Fund for the money so paid out on such warrants, which said tax shall be levied upon all the property in the county and shall not exceed one mill on each dollar of assessed valuation. If there be no money in the General Fund with which to pay such warrants, they shall be registered and bear interest in the same manner

Limit of levy.

Warrants registered, when.

HeinOnline -- 1923 44 1923

as other county warrants, but in such case the interest shall be computed and added to the amount for which such tax is levied."

Section 4. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 5. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 26.

An Act to Amend Section 3324 of the Revised Codes of Montana of 1921 Relating to the Inspection of Livestock About to Be Moved From One County to Another Within the State, and Defining the Powers of the Livestock Commission in Reference Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3324 of the Revised Codes of Montana of 1921 be, and the same hereby is amended to read as follows:

"Section 3324. From and after the passage of this Act, it shall be the duty of any and all persons, associations or corporations removing or taking livestock or meat cattle from one county to another within this state by railroad, or in any other manner whatsoever, to cause the same to be inspected for brands by a state stock inspector, and no railroad company shall accept such livestock for shipment, unless the shipper shall produce a certificate of their inspection for brands as herein required: (provided, however, that the Livestock Commission may authorize said shipments to be made without said inspection, in the event there is an inspection made at destination; and, provided, further, that the provisions of this Act shall not apply to the said stock when driven by the owner from one county to another for the purpose of pasturing, feeding, or changing the range thereof, nor to any stock so removed or taken by any person, association, or corporation, when such stock is used in the ordinary conduct of his business, and such person, association, or corporation has been the owner of said stock to be removed for at least three months.)"

Inspection of cattle transferred to other counties.

R. R. company must require certificate of inspection.

Exceptions.

HeinOnline -- 1923 45 1923

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 27.

An Act Providing for the Payment of Filing Fees and Attorneys' Fees in an Action for the Foreclosure of Threshermen's Liens, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Filing fees and attorneys' fees in foreclosure of threshermen's liens. In an action to foreclose a thresherman's lien upon grain or crops as provided in Sections 8366 to 8374 of the Civil Code, the court must allow as costs the money paid for filing and recording the lien, and a reasonable attorney's fee in the district and supreme courts, and such costs and attorney's fee must be allowed to each claimant whose lien is established, and such reasonable attorney's fee must be allowed to the defendant against whose property a lien is claimed if such claim be not established.

Court must allow what fees and costs.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 28.

An Act Amending Section 8370 of the Revised Codes of Montana of 1921, Relating to the Time in Which Actions for Foreclosure of Threshermen's Liens May Be Commenced.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 8370 of the Revised Codes of Montana of 1921 be and the same hereby is amended to read as follows:

HeinOnline -- 1923 46 1923

"8370. Limitations of actions to foreclose thresher men's liens. All actions for the foreclosure and enforcement of the lien herein provided for must be commended within six months from the filing of the lien."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved Feb. 27, 1923

CHAPTER 29.

An Act to Amend Section 3341 of the Revised Codes of 1921, Relating to the Shipment of Cattle and the Duties of the Shipper and of the Railroad.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3341 of the Revised Codes of Montana, 1921, be, and the same is hereby amended to read as follows:

"Section 3341. Every person, agent, firm, corporation, pool or roundup association, who shall ship cattle from this state to any market where Montana livestock inspectors are maintained, may ship with their own cattle any estrays which may be among them, but they shall, before shipment, or at the time of loading same on the cars for shipment, carefully and as accurately as possible inspect or tally the brand on such cattle, whether their own or estrays, making a list in duplicate, which list shall state the date of loading, name of shipper, description of brands on each animal, number and class of the cattle bearing each brand, destination, name of the commission firm to whom consigned, and the name of the person in charge of the shipment. It shall be the duty of the railroad agent at the point of loading to require from the shipper tallies as described in this Act, and to forward within twenty-four (24) hours after loading, one copy to the livestock commission at Helena, Montana, and another copy to the Montana Brand Inspector at the point of destination."

Shippers may include estrays when.

Tally at time of loading.

Contents of tally sheet.

Railroad agent to require tallies.

Duty of agent to transmit when and where.

Section 2. Every person, agent, firm or corporation violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be

Penalty.

HeinOnline -- 1923 47 1923

fined in any sum not exceeding three hundred Dollars ($300.00), or imprisonment in the county jail not to exceed six (6) months, or both such fine and imprisonment.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect upon its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 30.

An Act to Provide for the Publication of the State Examiner's Report Covering the Examination of the Various County Officers as a Part of the Official Proceedings of the Board of County Commissioners of Such County.

Be it enacted by the Legislative Assembly of the State of Montana:

County com'rs must make examiners report part of board's minutes.

Publication.

Section 1. Upon the receipt of the State Examiner's report covering the examination of the affairs of any county, it shall be the duty of the Board of County Commissioners of such county to have such report entered and made a part of the minutes of the next regular meeting of such Board. Provided further, that such report must be published in full as a part of the official proceedings of said Board of County Commissioners.

Section 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 31.

An Act to Amend Sections Numbered 5404, 5405, 5411, 5413, 5415, 5418, 5442, 5443, 5444, 5448, 5449, 5465, 5466, 5470, 5471, 5487, 5502, 5507, 5515, and 5516, of the Revised Codes of Montana, 1921, Relating to the Commission-Manager Plan of Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5404 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

HeinOnline -- 1923 48 1923

"Section 5404. If such proposition is adopted, the mayor shall transmit to the governor, to the secretary of state and to the county clerk and recorder, each a certificate stating that such proposition was adopted.

Mayor to transmit certificate of adoption of proposition, where.

"If such proposition shall not be adopted at such special election, such proposition shall not again be submitted to the electors of such municipality within a period of two years from the date of the last submission."

Failure of proposition; not to be resubmitted for 2 years.

Section 2. That Section 5405 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5405. If the majority of the votes cast at such election shall be in favor of such proposition, the city or town council must hold a meeting within one week thereafter and at such meeting order a special election to be held for the purpose of electing the number of commissioners to which such municipality shall be entitled, which order shall specify the time of holding such election, which must be within ninety days after the making of such order, and the mayor shall thereupon issue a proclamation setting forth the purpose for which such special election is held and the day of holding the same, which proclamation shall be published for ten successive days in each daily newspaper published in such municipality if there be such, otherwise for two successive weeks in each weekly newspaper published therein, and a copy thereof shall also be posted at each voting place within said municipality and also in five of the most public places in said municipality."

When proposition adopted, duty of city council.

Special election for comm'rs.

Contents of order; date of election.

Proclamation:

Publication and posting of proclamation.

Section 3. That Section 5411 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5411. The Commissioners elected at the first election shall qualify and their terms of office shall begin on the first Monday after their election, and the terms of office of the Mayor and Councilmen or Aldermen in such city or town in office at the beginning of the term of office of the commissioners first elected under the provisions of this Act shall cease and terminate, and the terms of office of all their appointed officers, and of all of the employees of such city or town, shall cease and terminate as soon as the commissioners shall by resolution declare.

Qualification of new comm'rs; terms of office.

Terms of officers cease when.

HeinOnline -- 1923 49 1923

Length of term of comm'rs.

"All commissioners shall serve for a term of four years and until their successors are elected and have qualified; except that at the first election the two candidates having the highest number of votes shall hold office for a period of four years, less the time elapsed since the 31st day of December of the odd numbered year last preceding. The terms of office of all other candidates shall expire on the 31st day of December in any odd numbered year following the special election provided for in this Act, at which the first commissioners are elected.

Exception.

Terms of other candidates.

Where city or town operating under plan in 1921 failed to elect comm'r.

"If any city or town, having adopted the plan of government provided for by this Act in the year 1921, shall have held no election to fill the vacancy caused by the expiration of the term of the commissioner whose term of office expired on the first day of January, 1922, then at the election held in such city or town in November 1923, there shall be elected three commissioners. The term of office of the Commissioner elected by the smallest number of votes at such election shall expire on the 31st day of December, 1925, and the terms of the other two shall expire on the 31st day of December, 1927."

Election 3 comm'rs 1923.

Term of office of 3 comm'rs.

Section 4. That Section 5413 of the Revised Codes of Montana, 1921 be, and the same is hereby, amended to read as follows:

Qualifications members of com'n.

"Section 5413. Members of the commission shall be residents of the city or town and have the qualifications of electors, and own real estate situated therein to the assessed value of not less than one thousand dollars. Commissioners and other officers and employees shall not hold any other public office or employment, except in the State Militia, as School Trustees, or Notary Publics, and shall not be interested in the profits or emoluments of any contract, job, work, or service for the municipality. Any commissioner who shall cease to possess any of the qualifications herein required, shall forthwith forfeit his office, and any such contract in which any member is or may be interested, may be declared void by the commission.

Com'rs and officers not to hold public office.

Exceptions.

Forfeiture of office.

Acceptance of pass, etc., by officers. regulated

"No commissioner or other officer or employee of said city or town shall accept any frank, free ticket, pass or service directly or indirectly, from any person, firm or

HeinOnline -- 1923 50 1923

corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor and shall also be sufficient cause for the summary removal or discharge of the offender. Such provisions for free service shall not apply to policemen or firemen in uniform or wearing their official badges, where the same is provided by ordinance, nor to any commissioner, nor to the city manager, nor to the city attorney, upon official business, nor to any other emplyee or official of said city on official business who exhibits written authority signed by the city manager."

Penalty.

Excepticns.

Section 5. That Section 5415 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5415. All ballots used in all elections held under authority of this Act shall be without party mark or designation. The ballots shall be printed on plain, substantial white paper.

Ballots without party mark.

"Except that the crosses here shown shall be omitted, and that in place of the names of persons here shown, there shall appear the names of the persons who are candidates for nomination, the primary ballots shall be substantially as hereinafter designated. Primary, regular and special election ballots provided under authority of this Act for the nomination or election of commissioners shall not bear the name of any person or persons or any issue other than those of candidates for the nomination or election to the office of commissioner."

Form and contents of primary ballots.

Official Primary Ballot.

Vote for (insert here a number equal to the number of persons to be elected to the office of commissioner at the next regular municipal election.)

If you wrongly mark, tear or deface this ballot, return it and obtain another.

Candidates for nomination to the office of Commissioner at the primary election.

HeinOnline -- 1923 51 1923

[X]	John Doe
[X]	Henry Smith
[X]	George Jones
[X]	James Richards
[X]	Richard Doe

Official Ballot Attest:

(Signature) .....

Clerk of the Commission.

Number ballots for polling places.

Having caused said ballots to be printed, the clerk of the commission shall cause to be delivered at each polling place a number of said ballots, ten per cent in excess of the number of such voters registered in such polling place at the last general municipal election. The persons

Who may vote.

who are qualified to vote at the general election, shall be qualified to vote at such primary election, and any

Challenge.

person offering to vote, may be orally challenged by any elector of the municipality upon any or all grounds set forth and specified in Section 706 of the Revised Codes of Montana of 1921, and the provisions of Sections 707, 708, 709, 710, 711, 712, 713, and 714 of the Revised Codes of Montana, 1921, shall apply at all challenges made at such election.

Judges of election to make count.

Judges of election shall immediately upon the closing of the polls, count the ballots and ascertain the number of such votes cast in such precinct for each

Returns to clerk of com'n when.

of the candidates, and make return thereof to the clerk of the commission upon proper blanks to be furnished by the clerk of the commission within twelve hours of the closing of the polls. Not later than the first legal day

Clerk of com'n to canvass returns.

after he shall have received such returns, the clerk of the commission shall canvass said returns so received from all the polling precincts and shall make and publish

Publication of result.

in all the newspapers in said municipality, at least once. the result thereof.

Canvass to be public.

Said canvass by the clerk of the commission shall be made publicly.

Number of candidates for com'r to be placed on regular ballot.

The candidates for nomination to the office of commissioner who shall have received the greatest vote in such primary election shall be placed on the ballot at

HeinOnline -- 1923 52 1923

the next regular municipal election, in number not to exceed double the number of vacancies in the commission to be filled.

Except as otherwise in this Act provided all electors of municipalities under this Act, who, by ordinances governing cities and towns incorporated under the general municipal incorporation law, or by charter, would be entitled to vote for the election of officers at any general municipal election in such cities or towns, shall be qualified to vote at all elections under this Act; and the ballots to be used at such general municipal elections, shall be in the same general form as for such primary election so far as applicable, and in all elections in such municipalities, the election precincts, voting places, method of conducting the elections, canvassing of votes and announcing the results, shall be the same as by law provided for the election of officers in such cities or towns so far as the same are applicable and not inconsistent with the provisions of this Act."

Electors of municipalities qualified to vote.

Form of ballots.

General laws for election city officers apply.

Section 6. That Section 5418 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5418. Every candidate for Commissioner shall, within thirty (30) days after the election, file with the Clerk of the Commission his sworn statement of all his election and campaign expenses, and by whom such funds were contributed.

Any violation of the provisions of this section, shall be a misdemeanor and if committed by a successful candidate, give ground for the removal from office."

Candidate's expense acct.

Penalty.

Section 7. That Section 5442 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5442. In case a petition be filed requiring that a measure passed by the Commission providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such expenditure, actual issuance of the bonds, or actual execution of the contract for such improvement, may be taken prior to the election; and at such election only resident tax payers of such city or town whose names as such appear upon the assessment roll and who are also qualified electors of said city or town, shall be entitled to vote at such election. And at

Acts of com'n when referred to vote of electors.

Preliminary steps may be taken prior to election.

Who may vote.

HeinOnline -- 1923 53 1923

any and all elections in such city or town at which questions relating to bond issues, tax levies, or the expenditure of money shall be submitted, no person shall be entitled to vote unless qualified as in this section provided."

Section 8. That Section 5443 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

Com'r must file oath of office and bond.

"Section 5443. Every person who has been declared elected Commissioner, shall within ten (10) days thereafter take and file with the clerk of the commission his oath of office in the form and manner provided by law, and shall execute and give sufficient bond to the municipal corporation in such sum as the judge of the district court of the county in which such municipality is situated, not, however, exceeding $5000.00 for Commissioners in cities of the first class and $3000.00 for Commissioners in all other cities and towns, conditioned for the faithful performance of the duties of his office, which bond shall be filed with the Clerk and Recorder of the County in which such municipality is situated. The premium on such bond as may be required, shall be paid by the municipality."

Amount of bond fixed by judge.

Bond filed where.

Premium paid how.

Section 9. That Section 5444 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

Mayor, who is.

"Section 5444. The mayor shall be that member of the commission, who, at the regular municipal election at which the commissioners were elected, received the highest number of votes. In case two candidates receive the same number of votes, one of them shall be chosen mayor by the remaining members of the commission. In event of a vacancy in the office of the mayor, by the expiration of his term of office, the holdover commissioner having received the highest number of votes shall be the mayor. In the event there is a vacancy in the office of the mayor for any other cause, the remaining members of the commission shall choose his successor for the unexpired term from their own number by lot. The mayor shall be the presiding officer, except that in his absence, a president pro tempore may be chosen. The mayor shall exercise such powers conferred, and perform all duties imposed upon him by this Act, the ordinances of the municipality and the laws of the state, except that he

Tie vote procedure.

When vacancy occurs.

Mayor is presiding officer.

Duties and powers.

HeinOnline -- 1923 54 1923

shall have no power to veto any measure. He shall be recognized as the official head of the municipality by the courts for the purpose of serving civil processes, by the Governor for the purposes of the military law, and for all ceremonial purposes."

Section 10. That Section 5448 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5448. At ten o'clock A. M. on the first Monday after the first day of January, following a regular municipal election, the Commission shall meet at the usual place for holding the meetings of the legislative body of the municipality, at which time the newly elected commissioners shall assume the duties of their office. Thereafter, the commissioners shall meet at such times as may be prescribed by ordinance or resolution, except that in municipalities having less than five thousand inhabitants, they shall meet regularly at least once and not more than four times per month, and in municipalities having more than five thousand inhabitants, they shall meet not less than once every two weeks. Absence from five (5) consecutive regular meetings shall operate to vacate the seat of a member, unless such absence be authorized by the commission.

Meeting held when and where.

Subsequent meetings.

Periodical meetings, when.

Absence vacates seat when.

"The commissioner acting as mayor, any two members of the commission or the city manager, may call special meetings of the commission upon at least twelve (12) hours written notice to each member of the commission, served personally on each member or left at his usual place of residence. All meetings of the commission shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings."

Who may call special meetings.

Notice of.

Meetings and records public.

Order of business and record.

Section 11. That Section 5449 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5449. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the commission shall be, "Be it

Resolutions; form of.

General appropriation ordinances.

HeinOnline -- 1923 55 1923

Enacting clauses.

ordained by the Commission of the (city or town) of (name of city or town)." The enacting clause of all ordinances submitted by the initiative shall be, "Be it ordained by the people of the (city or town) of (name of city or town)."

Ordinance passed when.

No ordinance, unless it be declared an emergency, shall be passed on the day on which it shall have been introduced, unless so ordered by an affirmative vote of four-fifths of the members of the commission in cities with five commissioners and two-thirds of the members of the commission in all other cities and towns. Every ordinance or resolution passed by the commission shall be signed by the mayor or two members, and filed with the clerk within two days, and by him recorded.

Ordinance signed by whom when adopted:

Filing of.

Amendment of ordinance.

No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contains the entire ordinance or resolution or section revised or amended."

Section 12. That Section 5465 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

Director of public safety, duties of.

"Section 5465. Department of Public Safety. Subject to the supervision and control of the City Manager in all matters, the Director of Public Safety shall be the executive head of the division of police and fire. He shall also be the chief administrative authority in all matters affecting the inspection and regulation of the erection, maintenance, repair and occupancy of buildings as may be ordained by the Commission or established by the general law of the State of Montana. He shall also be charged with the enforcement of all laws and ordinances relating to weights and measures.

Chief of police authority and duties.

"The Chief of Police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, under such rules and regulations as the Director of Public Safety may prescribe. The provisions of Sections 5095 to 5108, both inclusive, Revised Codes of Montana 1921, and of Section 5007, Revised Codes of Montana 1921, shall not be applicable to cities and towns operating under the plan of government provided for in this Act.

Police force composed of whom.

The police force shall be composed of a chief of police and such officers, patrolmen and other employees as the City Manager may from time to time determine. In case of riot, emergency, at time of elections or similar occa-

HeinOnline -- 1923 56 1923

sions, the Director of Public Safety may appoint additional patrolmen and officers for temporary service who need not be in the classified service.

Additional patrolmen.

"No person shall act as special policeman, special detective, or other special police officer for any purpose whatsoever, except upon the written authority of the Director of Public Safety. Such authority shall be exercised only under the direction and control of the Chief of Police and for a specified time.

Special policemen must have written authority.

"The Fire Chief shall have exclusive control of the stationing and transfer of all firemen and other officers and employees constituting the fire force under such rules and regulations as the Director of Public Safety may prescribe. The fire force shall be composed of a chief and such other officers, firemen and employees as the City Manager may from time to time determine. In case of riot, conflagration or emergency, the Director of Public Safety may appoint additional firemen and other officers for temporary service who need not be in the classified service.

Fire chief duties of.

Fire force composed of whom.

Emergency service.

"The City Manager, Chief of Police and Fire Chief shall have the right to suspend any of the officers and employees in the police and fire departments, who may be under their management and control, for incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause. If any officer or employee be suspended, as herein provided, the City Manager or chief of the division concerned shall forthwith in writing, certify the fact, together with the cause for the suspension and render judgment thereon, which judgment, if the charge be sustained, may be suspension, reduction in rank, or dismissal, and such judgment in the matter shall be final, except as may be provided in the rules and regulations of the Civil Service Board. The Director of Public Safety in such investigation, shall have the same power to administer oaths and secure the attendance of witnesses and the production of books and papers as is conferred upon the commission.

Subordinate officers may be suspended by whom.

Certificate of suspension.

Authority of public safety director in investigation.

"The City Manager shall have the exclusive right to suspend or dismiss the Chief of Police and the Fire Chief for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders, given by proper authority, or for any other just and reasonable cause. If either of such chiefs be so suspended or dismissed, the City Manager shall forthwith certify the fact, together with the cause of suspension or dismissal, to the Commission, who,

Suspension of chief of police or fire chief.

Certification of suspension to com'n.

HeinOnline -- 1923 57 1923

if demand therefore be made by the person so suspended or dismissed, within five (5) days from the date of receipt of such notice, shall proceed to hear such charges and render judgment thereon, which judgment shall be final.

Hearing by com'n and judgment.

Relief fund for injured employees.

"The Commission may provide by general ordinance for the relief out of the police or fire funds, of members of the division of police and fire temporarily or permanently disabled in the discharge of their duty. Nothing herein shall impair, restrict or repeal any provision of general law authorizing the levying of taxes to provide for firemen, police, and sanitary police pension funds, and to create and perpetuate boards of trustees for the administration of such funds."

Act does not repeal general law for levy of taxes for pension funds.

Section 13. That Section 5466 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

Director of finance, duties of.

"Section 5466. Department of Finance. The duties of the Director of Finance shall include the keeping and supervision of all accounts and the custody of all public money of the municipality; the purchase, storage and distribution of supplies needed by the various departments; the making and collection of special assessments; the issuance of licenses; the collection of license fees and taxes and such other duties as the commission may, by ordinance, require.

Accounts supplies special assessments, licenses.

Supervision of accounts.

"He shall install and have supervision over the accounts of all the departments and offices of the municipality. Whenever practicable the books of financial accounts shall be kept in the office of the Department of Finance. He shall require daily departmental reports of money receipts and the disposition thereof; and shall require of each, in such form as may be prescribed, current financial and operating statements exhibiting each transaction and the cost thereof.

Departmental reports.

Examination of Accts. on resignation of incumbent.

"Upon the death, resignation, removal or expiration of the term of any officer, he shall examine the accounts of such officer and report his findings to the City Manager.

Accounting procedure must be sufficient for needs.

"Accounting procedure shall be devised and maintained for the municipality adequate to record in detail all transactions affecting the acquisition, custodianship and disposition of values, including cash receipts and disbursements; and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as may be necessary to show the full effect of such transactions for each fiscal year upon the finances of the municipality

Peridoical reports.

HeinOnline -- 1923 58 1923

and in relation to each department of the municipal government, including distinct summaries and schedules for each utility publicly owned and operated.

"He shall have charge of the preparation and certification of all special assessments for public improvements; the mailing of notices of such assessments to property owners and all other duties connected therewith; the collection of such assessments as are payable directly to the municipality and the preparation and certification of all unpaid assessments to the county treasurer for collection. He shall issue all licenses and collect all fees therefor and shall pay the same into the Treasury in the manner provided by ordinance.

Special assessments.

Collection of assessments.

Certification of unpaid assessments.

Issue of licenses and collection of fees, payment to treasurer.

"No warrant for the payment of any claims shall be issued unless such claim shall be evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and countersigned by the City Manager. Before issuing such voucher, the supplies and material delivered, or work done, shall be dully inspected and certified to by the head of the proper department or office, or by a person designated by him. The head of each department or office shall require proper time reports from all service rendered to be certified by those having cognizance thereof, to serve as a basis for the preparation of payroll vouchers. Each director of a department and his surety shall be liable to the municipality for all loss or damage sustained by the municipality, by reason of the negligent or corrupt approval of any claim against the municipality in his department. Prior to the drawing of a warrant for the payment of any voucher or claim, the Director of Finance may at his discretion cause an investigation or inspection to be made by a person designated by him, and shall have power to summon persons and examine them under oath or affirmation which oath or affirmation he may administer.

Approved voucher required before claim paid.

Materials inspected before voucher issued.

Time reports, certification of.

Director and surety liable for loss when.

Investigation before warrant drawn.

"The Director of Finance shall be the custodian of all public money of the municipality and all other public money coming into his hands. He shall keep and preserve such money in the place or places determined by ordinance or by the provisions of any law applicable thereto. Except as otherwise provided in this Act he shall collect, receive and disburse all public money of the municipality upon warrant, and shall also receive and disburse all other public money coming into his hands in pursuance of such regulations as may be prescribed by the authorities having lawful control over such funds.

Custodian of public money.

Collection and disbursement of money.

HeinOnline -- 1923 59 1923

Purchase of supplies.

"The Director of Finance or City Manager shall, in manner provided by ordinance, purchase all supplies for the municipality, sell all real and personal property of the municipality not needed or unsuitable for public use or that may have been condemned as useless by the director of a department. He shall have charge of such store rooms and store houses of the municipality as may be provided by ordinance, in which shall be stored all supplies and materials purchased by the municipality and not delivered to the various departments.

Sale of property.

Store rooms.

Inspection of supplies.

"He shall inspect all supplies delivered to determine quality and quantity and conformance with specifications, and no voucher shall be honored unless the accompanying invoice shall be endorsed as approved.

Requisition for supplies from dept.

"He may require from the director of each department at such times as contracts for supplies are to be let, a requisition for the quantity and kind of supplies to be paid for from the appropriations of the department.

Goods may be purchased when.

Appropriation available.

"Upon certification that funds are available in the proper appropriations, such goods shall be purchased and shall be paid for from funds in the proper department for that purpose. However, this procedure shall not prejudice the Director of Finance or City Manager from purchasing goods for cash to the credit of the stores account, to be furnished the several departments on requisition, goods so furnished to be paid for by the department furnished therewith by warrant made payable to the stores account.

Exception.

No supplies delivered unless dept. apprn. sufficient.

"He shall not furnish any supplies to or purchase any supplies for any department unless there be to the credit of such department an available appropriation balance in excess of all unpaid obligations sufficient to pay for such supplies.

Competition for supplies.

"Before making any purchase or sale, the Director of Finance or City Manager shall give opportunity for competition, all proposals to be upon precise specifications, and under such rules and regulations as the Commission shall establish. Each order of purchase or sale, to be approved and countersigned by the City Manager or his deputy.

Purchase order signed how.

Emergency purchases without competition.

"In cases of emergency purchases may be made without competition, if a sufficient appropriation has theretofore been made against which purchases may lawfully be charged. In such cases, a copy of the order issued, shall be filed with the Director of Finance, together with a certificate by the head of the department, stating the facts of the emergency. A copy of this certificate shall

Copy of order and certificate filed where.

HeinOnline -- 1923 60 1923

be attached to and filed with the voucher covering payment for the supplies. The Director of Finance shall have such assistants and force of office employees as may be necessary to properly carry out his duties under the provisions of this Act. If it is found desirable, he may divide his office into divisions presided over by the following officers: Accountant, Treasurer and Purchasing Agent."

Assistants to director of finance.

Office divisions.

Section 14. That Section 5470 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5470. The Commission shall appoint a police judge who shall have the power and authority now conferred by existing laws and shall hold his office at the will of the commission."

Police Judge.

Section 15. That Section 5471 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5471. The Commission may appoint three electors of the municipality as a Civil Service Board; one to serve for two years, and one for four years and one for six years, to take office on the first day of January after the municipality comes under the provisions of this Act, or as soon thereafter as appointed and qualified. Thereafter members of the Civil Service Board shall be appointed to serve for six years and until their successors have been appointed and have qualified. Members of the Board shall not hold any other public office. The Commission may remove any member of the Board upon stating in writing the reasons for removal and allowing him an opportunity to be heard in his own defense. Any vacancy shall be filled by the Commission for the unexpired term.

Civil service board.

Term of office.

Not to hold other office.

Removal of members of board.

Vacancies.

"Immediately after appointment, the Board shall organize by electing one of its members chairman. The Board shall appoint a Chief Examiner who shall also act as Secretary. The Board may appoint such other subordinates as may by appropriation be provided for. It is intended hereby that the establishment of a Civil Service Board shall be permissive and not mandatory. If appointed the Board may be abolished at any time upon Resolution to that effect by the Commission and thereafter any Civil Service Board appointed under the provisions of this Act shall cease to exist, but so long as any such Civil Service Board shall exist its operations

Officers of board, election of.

Board not mandatory.

Board may be abolished how.

HeinOnline -- 1923 61 1923

and proceedings shall be controlled as in this Act hereinafter provided."

Section 16. That Section 5487 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

Duty of owner who subdivides lots for sale.

"Section 5487. Any owner of lots or grounds within the municipality who subdivides or lays them out for sale, must cause to be made an accurate survey and plat thereof, conforming in all things to the provisions of Section 4980 to 4993, inclusive, of this Code, and shall also file with the Clerk of the Commission a duly certified copy of such plat or plats."

Section 17. That Section 5502 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

Fiscal year of municipality.

"Section 5502. The fiscal year of the municipality shall begin on the first day of January. On or before the 15th day of December of each year, the City Manager shall submit to the Commission an estimate of the expenditures and revenues of the municipal departments for the ensuing year. The estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the City Manager. The Classification of the expenditures shall be as nearly uniform as possible for the main functional divisions of all departments and shall give in parallel columns the following information:

Estimate of expenses and revenue, submitted when.

Compiled how.

Classification of information.

"(a) A detailed estimate of the expenses of conducting each department as submitted by the department;

"(b) Expenditures for corresponding items for the last two fiscal years;

"(c) Expenditures for the corresponding items for the current fiscal year, including adjustments due to transfers between appropriations plus an estimate of expenditure necessary to complete the current fiscal year;

"(d) Amount of supplies and materials on hand at the date of the preparation of the invoice;

"(e) Increase or decrease of requests compared with the corresponding appropriations for the current year;

"(f) Such other information as is required by the Commission or that the City Manager may deem advisable to submit;

"(g) The recommendation of the City Manager as to the amounts to be appropriated with reasons therefor in such detail as the commission may direct.

HeinOnline -- 1923 62 1923

"A sufficient number of copies of such estimate shall be prepared and submitted, that there may be copies on file in the office of the Commission for inspection by the public."

No. of copies required.

Section 18. That Section 5507 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5507. The Commission shall fix by annual salary ordinance, the salary or compensation of the City Manager, the heads of the departments, its own employees, except as provided by this Act, the salary or compensation of the members of the division of police and fire under the immediate control of the chief, and of members of boards in the unclassified service of the municipality.

Com'n. shall fix annual salary ordinance.

"The City Manager shall fix the number and salaries or compensation of all other officers and employees.

Salary of other employees.

"In cities where there is a Civil Service Board as provided for in this Act, the salary or compensation so fixed, shall be uniform for like service in each grade of the service as the same shall be graded or classified by the City Manager in accordance with the rules and regulations adopted by the Civil Service Board. All such salaries and rates of pay, shall be reported to the Secretary of the Civil Service Board. All fees and moneys received or collected by officers and employees shall be paid into the City Treasury."

Service classification by civil service boards.

Monies collected to be paid to city treasury.

Section 19. That Section 5515 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5515. Except as otherwise in this Act provided, all Acts and parts of Acts and all laws now in force or hereafter enacted relative to municipal corporations, are hereby continued in full force and effect and shall be considered and construed as not repealed by this Act, except insofar as the same may be in conflict or inconsistent with the provisions of this Act."

Laws continued in force.

Section 20. That Section 5516 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5516. All laws and parts of laws in conflict herewith are hereby repealed; provided, however, that this Act shall not repeal or modify any of the provisions of an Act approved March 4, 1913, entitled, An Act making the Board of Railroad Commissioners of the

Repealing clause and exception.

HeinOnline -- 1923 63 1923

State of Montana ex-officio a Public Service Commission for the regulation and control of certain public utilities, etc., or any amendment or amendments of said Act, or Section 6645 of the Revised Codes of Montana of 1921, and neither shall this Act in any manner curtail or impair the power or authority of said Public Service Commission and any order made, action taken, or regulation provided, by said Commission shall supersede and nullify any order, regulation, ordinance or other action authorized by this Act in conflict with any such order, regulation, or action, of said Public Service Commission; provided, that the annual report relating to the operation of any public utility owned by any municipality operating under the provisions of this Act, to be made to said Public Service Commission, shall conform to the fiscal year of such city or town as established by this Act."

Section 21. This Act shall be in full force and effect from and after its passage and approval.

Approved, Feb. 27, 1923.

CHAPTER 32.

An Act to Amend Section 8275 of the Revised Codes of Montana, 1921, Relating to Chattel Mortgages.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 8275 of the Revised Codes of Montana be and the same is hereby amended to read as follows:

Interest in personal porperty may be mortgaged when.

For what purpose.

Preference lien.

Amounts of advances must be stated in mortgage.

"Any interest in personal property which is capable of being transferred may be mortgaged. Such property or interest may be mortgaged to secure existing debts, to secure debts created simultaneously with the execution of the mortgage and to secure advances then in contemplation but to be made in the future. Amounts constituting existing debts or obligations shall have a preference lien as against future advances, and advances made under the terms of the mortgage shall have preference in the order in which said amounts are advanced by the mortgagee to the mortgagor. The total amount of all advances contemplated and to be subject to mortgage protection must be stated in the mortgage and with the original debt shall constitute a preference lien for the life of the mortgage for the maximum amount provided

HeinOnline -- 1923 64 1923

in the mortgage as against all mortgages and other intervening liens subsequent in date to the time of the filing of the mortgage. The mortgagee shall upon demand of the mortgagor or a creditor furnish a statement of all such advances and amounts paid on the principal sum secured, provided such statement shall not impair or affect the lien created for all advances."

Statement by mortgagee.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall take effect and be in force from and after its passage and approval.

Approved, Feb. 27, 1923.

CHAPTER 33.

An Act to Establish a Bird Preserve in a portion of Teton County, for the Protection of Birds, to be Known as the Teton-Spring Creek Bird Preserve, and Providing Penalties for the Killing, Hunting, Trapping and Pursuing Any Birds in Such Preserve, or the Discharging of Fire Arms Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the better protection and propagation of birds, the following described area in Teton County, State of Montana, is hereby set aside and established as a State Bird Preserve, to be known as the Teton-Spring Creek Bird Preserve.

All of Sections Two (2), Three (3), Four (4), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), and Fifteen (15), in Township Twenty-four (24), North, Range Five (5) West.

Boundaries.

Section 2. It shall be unlawful for any person to hunt for, trap, capture, kill, or take or cause to be hunted for, trapped, or killed any birds of any kind whatever, within the limits of said Preserve; or to discharge and fire-arms, or to create any unusual disturbance tending to, or which may frighten or drive away any of the birds, or to chase the same with dogs in said Preserve; provided, however, that permits to capture animals or birds for the purpose of propagation, or for scientific purposes, or to destroy mountain lions, wolves, foxes, coyotes, wild cats, mink or other predatory animals or birds, may be issued by the State Game Warden, upon

Hunting, etc. prohibited within.

Exceptions.

HeinOnline -- 1923 65 1923

the payment of such fee, and in accordance with such regulations as may be established for said Preserve by the State Game and Fish Commission. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five ($25.00) dollars, nor more than One hundred ($100.00) Dollars, or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

Penalty.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved, Feb. 27, 1923.

CHAPTER 34.

An Act Providing for the Keeping of Books and Examination Thereof in School Districts of the Third Class: Declaring the Failure or Refusal to Comply With the Provisions of This Act to Be Grounds for Removal From Office of the Offending Officer: Prescribing the Method of Removal From Office and Providing for the Payment of the Costs of the Proceedings Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Books, method of keeping Prescribed by whom.

Section 1. It shall be the duty of the County Auditor in all counties having an auditor, and the county treasurer in all counties not having an auditor, to prescribe the method of keeping the books in school districts of the third class in their respective counties, and to make an examination of the books of such third class school districts at least once every year, and whenever directed so to do by the Board of County Commissioners, or requested by the board of trustees of such school districts. It shall be the duty of the clerk of districts of the third class of each of the several counties of the state to deliver to the county auditor or treasurer, as in this Act provided, between the 15th day of June and the 15th day of July of each year, all books, vouchers, claims, and other papers pertaining to his office, and take a receipt therefor, and all such books, vouchers, claims and papers shall be examined by said auditor or treasurer and returned to the several clerks, not later than August 15th of each year.

Examination.

Clerk of district to deliver books for examination when.

Upon the completion of the examination provided for in this Act, the auditor or treasurer, as the case may be, shall report the result of his examination by sending to the chairman of each board of trustees a written report of such examination and file a copy of each such report in the office of the County Superintendent of Schools.

Report of examination.

Section 2. It shall be the duty of the Board of Trustees and the clerk of all school districts of the third class to keep the books of such district in the manner prescribed by the county auditor or county treasurer, as the case may be, and failure or refusal to do shall constitute grounds for the removal from office of such trustee or trustees or clerk, and the costs of such removal shall be entered as a judgment against the officer so removed and be collected as other judgments on execution issued therefor. The county attorney shall prosecute all proceedings for removal of such officers, or the parties seeking such removal may employ private counsel, but in either case the parties commencing the proceedings shall be liable for the costs thereof upon a failure to sustain the charge, which costs shall be entered as a judgment against the parties and collected on execution issued therefor.

Trustees must keep books how.

Failure to do so.

County attorney to prosecute.

Costs of action.

Section 3. The examining officer provided for in this Act shall file a report setting forth in detail the result of any examination so conducted by him under the provisions hereof, in the office of the county clerk and recorder of the proper county.

Report of examination filed in county clerk's office.

Section 4. The county commissioners of each county shall furnish to each school district all the necessary books and blanks for carrying out the provisions of this Act.

Com'rs to furnish necessary books, etc.

Section 5. This Act shall be in full force and effect from and after its passage and approval.

Approved, Feb. 27, 1923.

CHAPTER 35.

An Act Relating to Imitation Butter; Prohibition of Coloring Matter; Sale of Skimmed Milk; Trade Marks; Unfair Discrimination; Penalty for Violation of the Law; Division of Dairying and Farming, Powers and Duties; Regulation of Standards Samples of Dairy Products for Analysis and Tests; Payment for

HeinOnline -- 1923 67 1923

Same; Compilation of Statistics and Extension Work; Licensing of Creameries, Cheese Factories and Ice Cream Factories; License Fees; Registration of Factories; Reports of Factories: Adoption of Babcock Test: Examination to Operate the Test; Fee for Certificate to Operate the Test; Methods of Conducting the Babcock Test; Use of Test Bottles; False Determination of Test; Regulation of Cream Stations; Location of Cream Stations; Unsanitary Places Where Dairy Products Are Manufactured or Kept; Interference With Officer in Performance of His Duties; Standards of Dairy Products; Maker's Name on Package Containing Butter; Licenses for Producers of Dairy Products and Amending Sections 2622; 2627; 2628; 2629; 2630; 2631; 3568; 3569; 3570 and 3282 of the Revised Codes of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2622 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

Word "butter" not to be used on cartons containing substitutes.

"Section 2622. IMITATION BUTTER. Hereafter the word 'butter' shall not be printed or used, either alone or in conjunction with any other word or words upon any carton, package, or other receptacle containing any substitute for butter, such as margerine or any other substance not made entirely from milk fat. No person or persons shall manufacture or sell, or expose for sale, any substance out of vegetable or animal fats or oils (not from milk or cream) colored in imitation of butter or any shade of yellow.

Products not to be sold.

Butter substitutes branded how.

All products made and sold, or exposed for sale as butter substitutes, and made either wholly or partly from any fat or oil other than from pure unadulterated milk or cream, shall have plainly marked, stamped or labeled on every package, so made, sold, or exposed for sale, in plain black, bold faced letters, one half inch high, the word 'Oleomargarine.' Hotels or restaurants using imitation butter or renovated butter, shall place placards, plainly legible from all parts of the dining room marked 'Oleomargarine' or 'Renovated Butter' as the case may be, 'used here.'

Restaurants, etc., must use placards.

Manufacturer's name on substitutes.

All oleomargarines or other substitutes for butter, and all renovated or process or patent butter, made or sold or offered for sale, shall have the name of the manufacturer plainly stamped or printed in a conspicuous

HeinOnline -- 1923 68 1923

place on the outside of the carton or package in which it is contained."

Section 2. That Section 2627 of the Revised Codes of 1921 be, and the same is hereby amended to read as follows:

"Section 2627. PROHIBITION OF COLORING MATTER. No person shall coat, powder, or color with annato or any coloring whatsoever, butterine, or oleomargarine, or any compound of the same, or any product or manufacture made in whole or in part from animal fats or animal and vegetable oils not produced from unadulterated milk or cream by which means such product, manufacture, or compound shall resemble butter or cheese, the product of the dairy; nor shall he have the same in his possession with the intent to sell, nor shall he sell or offer the same for sale. Coloring prohibited. Possession of prohibited.

No person or persons shall manufacture, sell or expose for sale any poisonous coloring matter for coloring of dairy food products of any kind, nor shall any person or persons use in dairy products any poisonous coloring matter manufactured, sold, offered, or exposed for sale, within the state, nor shall any person or persons sell, offer, or expose for sale any dairy food product containing such poisonous coloring matter." Manufacture, sale or use of poisonous coloring matter.

Section 3. That Section 2628 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

"Section 2628. SALE OF SKIMMED MILK. Milk from which cream has been removed, if such is otherwise wholesome and unadulterated, may be sold as such to makers of skim cheese, or to a consumer as hereinafter defined; but in the latter case only from vessels legibly marked with the words 'Skimmed Milk' in plain black letters upon a light colored background, and each letter being at least one inch high and one-half inch wide, and said words being placed on the top or side of each vessel. These requirements, however, shall not apply to skimmed or separated milk, delivered to any patron of the creamery who regularly sells whole milk to the proprietor thereof; but all the skimmed milk so delivered shall first be pasteurized at a temperature of at least one hundred and eighty degrees Fahrenheit. Skimmed milk, sale of. Container branded. Exceptions.

Section 4. That Section 2629 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

HeinOnline -- 1923 69 1923

Registration of trade mark.

"Section 2629. TRADE MARKS. When any dealer in dairy products wishes to retain for himself a name, brand or trademark, the same may be registered with the State Department of Agriculture, Labor and Industry and on no account shall that name, brand or trademark be used by another, unless duly consigned, given or sold to him by the originator or by the one to whom it belongs."

Section 5. That Section 2630 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

Unfair discrimination.

"Section 2630. UNFAIR DISCRIMINATION. Any person, firm, co-partnership or corporation engaged in the business of buying milk, cream or butter fat for the purpose of manufacture or sale, who shall discriminate between different sections, localities, communities, or cities of this state, by purchasing such commodity at a higher price or rate in one locality than is paid for the same commodity by said person, firm, co-partnership, or corporation in another locality, after making due allowance for the difference, if any, in the quality of such commodity or commodities, and the actual cost of transportation from the locality of purchase to the locality of manufacture, shall be deemed guilty of unfair discrimination and upon conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than ten thousand dollars, or by imprisonment for not less than thirty days, nor more than twelve months in the county jail, or by both such fine and imprisonment for each offense."

Penalty.

Section 6. That Section 2631 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

Penalty.

"Section 2631. PENALTY FOR VIOLATION OF LAW. Except where otherwise provided, any person or persons violating any Section of this Act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars for each offense, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment."

Section 7. That Section 3568 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

HeinOnline -- 1923 70 1923

"Section 3568. DIVISION OF FARMING AND DAIRYING. POWERS AND DUTIES. The Department of Agriculture, Labor and Industry through the Division of Farming and Dairying shall have general regulation of the industry of dairying in the State of Montana save and except the sanitary inspection of dairies, milk plants, condensed milk factories, and powdered milk factories. The regulation and sanitary inspection of all creameries, butter and cheese factories, ice cream factories and cream receiving stations, shall be the duty of the State Department of Agriculture, Labor and Industry. The sanitary inspection of dairies, milk plants, condensed milk factories and powdered milk factories, shall be administered by the State Livestock Sanitary Board.

Farming and dairying dept.—powers and duties.

Duty of livestock sanitary board.

REGULATION OF STANDARDS. It shall be the duty of the Department of Agriculture, Labor and Industry to enforce the laws regulating the standards of all dairy products, except whole milk, skimmed milk, condensed or evaporated milk and powdered milk, whether made from whole milk or skimmed milk. The regulation of the standards of whole milk, skimmed milk, evaporated or condensed milk, and powdered milk as mentioned herewith, shall be the duty of the Livestock Sanitary Board. For the purpose of this Act, the following definitions shall be adopted.

Regulation of standards.

BUTTER is the clean, non-rancid product made by gathering in any manner the fat of fresh ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt, and contains not less than eighty per cent (80%) of milk fat and not more than fifteen per cent (15%) water. Butter may also contain added coloring matter.

Butter defined.

RENOVATED BUTTER OR PROCESS BUTTER is the product made by melting butter and re-working, without the addition or use of chemicals, or any substance except whole milk, cream or salt, and contains not more than sixteen (16%) per cent of water and at least eighty (80%) per cent of milk fat.

Renovated butter—defined.

CHEESE is the sound, solid, and ripened product made from milk or cream by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning and contains, in the water-free substance, not less than fifty (50%) per cent of milk fat. Cheese may also contain added coloring matter.

Cheese defined.

HeinOnline -- 1923 71 1923

Skimmed milk cheese defined.

SKIMMED MILK CHEESE is the sound, solid, and ripened product made from skim milk by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning.

Ice cream defined.

(a) ICE CREAM is a frozen product made from pure cream and sugar, with or without a natural flavoring and pure gelatine and contains not less than ten (10%) per cent of milk fat.

Fruit ice cream defined.

(b) FRUIT ICE CREAM is a frozen product made from cream, sugar, and sound, clean, mature fruits, and contains not less than nine (9%) per cent of milk fat.

Nut ice cream defined.

(c) NUT ICE CREAM is a frozen product made from cream, sugar and sound, non-rancid nuts and contains not less than nine (9%) per cent of milk fat.

(d) All ice creams shall contain not less than thirty-three per cent (33%) of total solids and shall not contain to exceed one per cent (1%) of gelatine.

Samples and testing of

SAMPLES OF DAIRY PRODUCTS, TESTS AND PAYMENT FOR SAME. It shall be the duty of the Department of Agriculture, Labor and Industry, to provide suitable means for the taking of samples of dairy products and of all imitations thereof suspected of being made or sold in violation of the law, and to analyze or test the same and the Commissioner of Agriculture may require the State Chemist to test and analyze said samples. When samples of dairy products are taken in accordance with any of the provisions of the laws of Montana the agent taking the same, must pay, or offer to pay for them at their full value. If payment is accepted, the agent must obtain a receipt from the person or persons from whom the samples are obtained. The records of such samples and their analysis and test, when identified as to the samples by the oath of the officer taking the same, and verified as to the sample by the oath of the officer taking the same, and verified as to the analysis or test, by the oath of such chemist making the same, shall be prima facie evidence of the facts therein set forth, when offered in evidence in any prosecution or action at law or in equity for violation of the provisions of this Act, or any rule, regulation or order of said Department of Agriculture, Labor and Industry made in pursuance to this Act.

Payment for samples taken.

Receipt for payment.

Records prima facie evidence.

Publication of statistics.

COMPILATION OF STATISTICS AND EXTENSION WORK. It shall be the duty of the Department of Agriculture, Labor and Industry to compile and publish

HeinOnline -- 1923 72 1923

statistics concerning all phases of the dairy industry in the state, and to encourage and advertise said industry in every possible manner; to carry on a campaign of education in conjunction with the extension work of the College of Agriculture and Mechanic Arts of Montana for the purpose of encouraging interest in the dairy industry and of furnishing scientific and practical information concerning same."

Section 8. That Section 3569 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

Registration of location of dairy product factories.

"Section 3569. REGISTRY OF LOCATION OF DAIRY PRODUCT FACTORIES. It shall be the duty of every cheese factory, creamery, butter factory, skimming station or cream buying station in the state, where milk or cream is purchased or contributed by three or more persons for the purpose of manufacture into butter, cheese, cottage cheese or ice cream, or for shipment to any place or places where said milk or cream may be made into the dairy products named herewith, to register the location of such cheese factory, creamery, butter factory, skimming station or cream buying station; and the name of its owner or manager, with the Commissioner of Agriculture on or before the first day of April of each year. Before the organization of any new factory, notice shall be given at once to said Commissioner of Agriculture.

Notice of new factory.

Licenses.

LICENSING OF CREAMERIES. It shall be unlawful for any person, firm or corporation to conduct any creamery, milk or cream receiving station, butter factory, cheese factory, or ice cream factory, without first securing a license from the State Department of Agriculture, Labor and Industry to operate the same. Such license shall expire on the last day of December of the current year in which it is issued; provided, however, that said license may be revoked by the Commissioner of Agriculture whenever the holder thereof shall fail to comply with the laws of the State of Montana or to conduct such establishment in an orderly or sanitary manner. It is further provided that all licenses which have been issued by the Livestock Sanitary Board to creameries, milk or cream receiving stations, butter factories, cheese factories or ice-cream factories, shall remain in full force and effect for the full period for which they were issued, unless revoked by the Commissioner of Agriculture, La-

Expiration or revocation of license.

Licenses continued in force.

HeinOnline -- 1923 73 1923

bor and Industry for failure to comply with the laws of the State of Montana, or to conduct their business in a sanitary or orderly manner.

Fees.

LICENSE FEES. The following schedule of license fees shall be charged for all licenses issued by the Department of Agriculture, Labor and Industry under the provisions of this Act.

Cream buying and shipping stations $5.00.

Creameries and Cheese Factories making less than 100,000 lbs. $5.00.

Those making more than 100,000 and less than 200,000 lbs. $10.00.

Those making more than 200,000 and less than 300,000 lbs. $15.00.

Those making more than 300,000 and less than 400,000 lbs. $20.00.

Those making more than 400,000 and less than 500,000 lbs. $25.00.

Those making more than 500,000 and less than 600,000 lbs. $30.00.

Those making more than 600,000 and less than 700,000 lbs. $35.00.

Those making more than 700,000 and less than 800,000 lbs. $40.00.

There making more than 800,000 and less than 900,000 lbs. $45.00.

Those making more than 900,000 lbs. $50.00.

Ice cream factories making less than 10,000 gallons $5.00.

Those making 10,000 gallons and less than 20,000 gallons $10.00.

Those making 20,000 gallons and less than 30,000 gallons $15.00.

Those making 30,000 gallons and less than 40,000 gallons $20.00.

Those making 40,000 gallons OR OVER $25.00.

For the purpose of this Act, the following definitions shall be adopted:

Creamery defined.

A creamery shall be defined as a place where the milk or cream furnished by three or more persons, selling the same independently of each other, is used for manufacture into butter for commercial purposes.

Cheese factory defined.

A cheese factory shall be defined as a place where milk furnished by three or more persons, each selling the same independently of the others, is made into cheese for commercial purposes.

HeinOnline -- 1923 74 1923

Ice cream factory defined.

An ice cream factory shall be defined as any place where ice cream is made for sale, where the minimum output is 200 gallons per annum, or where it is made for thirty days or more in each year.

Reports of factories, when made.

REPORTS OF FACTORIES. It shall likewise be the duty of each and all of the establishments in this Section named, to render to the Commissioner of Agriculture, within the first three days after the last day of each quarterly period, a full report of the amount of butter, cheese, ice cream, or other dairy products handled or manufactured during the preceding three months. The first quarter of any year shall begin with the first day of the year.

Section 9. That Section 3570 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

Babcock test adopted.

"Section 3570. BABCOCK TEST ADOPTED. The Babcock test is hereby adopted as the official dairy test for use in the State of Montana.

Operator of test to submit to examination.

EXAMINATION TO OPERATE THE TEST. Any person operating the Babcock test in any creamery or cheese factory, or other place where milk or cream is bought and paid for on the basis of its fat content, shall be required to pass such examination as the Commissioner of Agriculture shall prescribe, upon successful completion of which examination he shall receive a certificate signed by said Commissioner, or his authorized agent, stating his competency to operate said test.

Certificate of examination.

Certificate fee.

FEE FOR CERTIFICATE. A fee of two dollars shall be paid to the Commissioner by the applicant for said certificate. Said money shall be turned in by said Commissioner to the State Treasurer for the use and benefit of the general fund of the State.

To general fund.

Method of test.

METHOD OF CONDUCTING BABCOCK TEST. The following is the method which shall be adopted as the standard for the operation of the Babcock test for the State of Montana and shall be used by persons, firms, or corporations paying for milk or cream on the basis of the butterfat content of such commodity or commodities.

Testing milk.

TESTING MILK. The milk from which the sample to be tested is taken shall be thoroughly mixed by pouring from one vessel to another, three times and by stirring with an instrument suitably for the purpose. The sample to be tested shall consist of eighteen grams by weight.

HeinOnline -- 1923 75 1923

or seventeen and six-tenths cubic centimeters, as measured in a standard pipette. The standard strength of the acid used for all testing of milk or cream shall be indicated by the specific gravity, which shall be not less than one and eighty-two hundredths, nor more than one and eighty-three hundredths, as determined by a standard hydometer. After properly mixing the sample of milk and acid, in the test bottle, centrifuging shall be for periods of five minutes, two minutes, and one minute. After the first period of centrifuging, water shall be added, sufficient to fill the test bottle up to the base of the neck and after the second centrifuging, water shall be added sufficient to raise the fat in the neck of the test bottle to near the top of the graduation. The water used to fill the test bottles shall be at a temperature of one hundred and forty degrees Fahrenheit or more. After the last period of centrifuging, the test bottles shall be immersed in a bath prepared for the purpose, which shall consist of water at not less than one hundred and thirty-five degrees nor more than one hundred and forty degrees Fahrenheit, and they shall remain immersed for at least ten minutes and the temperature of the bath shall be kept between the temperatures before named for the full period of immersion. The test shall be read immediately after the test bottles are taken from the bath. Dividers shall be used to determine the length of the fat column in the neck of the test bottles.

The reading shall be from the bottom of the lower meniscus to the top of the upper meniscus of the fat column.

Cream tests.

TESTING CREAM. The method of testing cream shall be the same as for milk, except that all samples of cream tested shall be eighteen grams by weight, and the reading of the fat column in the neck of the test bottle shall be from the bottom of the lower meniscus to the bottom of the upper meniscus. If glymol is used to destroy the upper meniscus, the reading shall be from the bottom of the lower meniscus to the bottom of the glymol on the top of the fat column.

Cream test, alternate method.

ALTERNATE METHOD OF TESTING CREAM. If the operator prefers, he may use the alternate method of testing cream, hereinafter described. Before taking the samples of cream for testing, the whole body of cream shall be thoroughly mixed, as by the preceding method. All samples of cream taken for testing shall be homogenous samples of the whole body of cream from which

HeinOnline -- 1923 76 1923

they are taken and shall be eighteen grams by weight. After properly mixing the acid and sample of cream to be tested, the test bottle shall be filled to the base of the neck with water at a temperature of not less than one hundred and eighty degrees Fahrenheit, placed immediately in the testing machine and centrifuged for not less than five minutes. The test bottle shall then be filled to near the top of the graduation with water, at one hundred and eighty degrees Fahrenheit, replaced in the machine and centrifuged for two minutes or more. The water bath shall then be used and the reading made in the same way as in the preceding method. A standard thermometer shall be used for determining temperatures in making the Babcock test.

Test bottles, use of.

USE OF TEST BOTTLES. All test bottles, pipettes and other glassware used in connection with the Babcock test, where the fat forms a basis for the payment of the product, shall be handled and calibrated by the Commissioner of Agriculture or his deputies, as often as the Commissioner may prescribe, such testing or calibrating to be done on the premises where such glassware is used. All bottles used for the purpose of making the Babcock test shall be STANDARD BOTTLES, and shall be designated as such by the word "standard" stamped thereon. All glassware found to be not standard in capacity shall be seized and destroyed by the Commissioner of Agriculture or his authorized agent.

Standard bottles.

Condemnation of all others.

False determination of test.

FALSE DETERMINATION OF TEST. No owner, manager, agent or employee of a cheese factory, creamery, or other place where the fat content of milk or cream is determined by test, shall falsely manipulate or under-read or over-read the Babcock test or any other contrivance used for determining the quality of milk or cream or make any false determination of the said Babcock test or other test.

Cream stations, regulation of.

REGULATION OF CREAM STATIONS. Any person, firm or corporation, who shall operate a buying or collecting station, where milk or cream is bought or collected for the purpose of shipment to some other place, or to be sold or transferred to any creamery or any other manufacturing plant for the purpose of being made into butter or other dairy products, shall first secure a license from the State Department of Agriculture, Labor and Industry to operate such station. Upon and after the first day of May 1923, all stations within the State

License.

Requirements after May 1, 1923.

HeinOnline -- 1923 77 1923

of Montana where cream or milk is bought, or collected, for shipment or sale, shall have the following requirements:

Location of station.

LOCATION OF STATION. The location shall be on well drained ground at least fifty feet from any outside contaminating influence. If within a building where any other business is conducted, it shall be separated from the other rooms of the building by a tight wall or walls, and if there is an opening for passage between the room used as the station and the rest of the building, there shall be two doors, one at each end of a vestibule or entry which shall be at least six feet in length. The doors shall be of wood, or wood and glass, and sufficient to keep all odors or dust from entering the station from any other part of the building. No station for the purpose of purchasing, storing or handling milk or cream shall be situated inside of, nor within fifty feet of any blacksmith shop, garage, grain elevator, livery stable, or any other building, corral, hog-pen, or other place which can be denominated a contaminating influence; nor shall any oil, gasoline or any other liquid or substance of a contaminating nature, be kept within fifty feet of such station. The room used shall not be used for any purpose other than a milk or cream receiving station and shall at no time contain anything except the milk or cream received there, the cans or other receptacles in which it is shipped, and such furniture and equipment as may be necessary to efficiently conduct the business of such station. No gasoline engine shall be used or kept inside the room where the milk or cream is stored or kept. The engine or boiler shall be kept in a room partitioned off from the room where the milk or cream is kept or stored. A sanitary sink or tank with suitable drain shall be provided, in which to wash cans and other utensils used in conducting the business of the station; and a waste jar in which to empty the contents of the test bottles after the testing has been completed shall also be used. Dogs, cats, or other pet animals, shall not be permitted to enter the room where the milk or cream is stored, and pieces of screen secured by hoops, or other devices, shall be used on the top of the cans containing milk or cream while in storage, to prevent mice, insects or dirt from falling in. The floor of the room where the milk or cream is kept or stored shall be of cement or concrete, with a drain which shall be connected with a sewer, or with a pipe which shall convey

If within building where other business conducted.

Doors.

Distance from certain buildings.

Room used for what.

Gasoline or other engine in separate room.

Sanitary sink required.

Waste jar.

Pet animals not permitted.

Screens for cans.

Cement floor with drain.

HeinOnline -- 1923 78 1923

the waste water under ground to a point not less than fifty feet from the station. It shall be provided with windows containing at least twenty square feet of glass for each one hundred square feet of floor space. Between May first and November first, of each year, screen doors shall be provided and in use on all outside doorways, and during that time, screens shall be on all windows in the room. There shall be provided a cooling tank, large enough to hold all of the cream or milk received or stored, and in which there shall be at all times an amount of cold running water, or ice water, sufficient to thoroughly cool all milk or cream stored there. There shall be provided a steam boiler large enough to furnish sufficient steam to thoroughly sterilize cans, or a stove or other heating plant equipped with a tank, the minimum capacity of which shall be ten gallons, to supply sufficient boiling water to thoroughly scald the same; and all cans in which milk or cream is received, shall be thoroughly washed in clean water with a sterilizing or cleansing powder added, and either sterilized with live steam or scalded with boiling water before being returned to the patron. A rack shall be provided on which cans not immediately returned to the patron, shall be inverted for the purpose of drying and airing, after being sterilized by steaming and scalding.

Window specifications.

Screen doors and windows.

Cooling tank.

Steam boiler or stove required.

Cans to be sterilized how.

Rack for drying cans.

UNSANITARY PLACES WHERE DAIRY PRODUCTS ARE MANUFACTURED OR KEPT. Acting upon the report of an inspector employed by the State Department of Agriculture, Labor and Industry, the Commissioner of Agriculture, or his authorized agent, may order any creamery, cheese factory, or cream station found to be not kept in a sanitary condition, to be closed; and it shall be closed forthwith and kept closed until such time as an inspector employed by the State Department of Agriculture, Labor and Industry shall report that the sanitary conditions of such creamery, cheese factory, or cream station, are satisfactory. Any person or persons operating any creamery, cheese factory, or cream station, before receiving notice from the Commissioner of Agriculture or his authorized agent to open the same, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars, or by imprisonment in the county jail for not less than ten days. nor more than thirty days, or by both such fine and imprisonment. In addition to such fine and im-

Unsanitary places may be closed how.

Penalty.

HeinOnline -- 1923 79 1923

prisonment, any person or persons operating any creamery, cheese factory or cream station after receiving notice from the Commissioner of Agriculture, or his authorized agent, to close the same and before receiving notice from the Commissioner of Agriculture, or his authorized agent, permitting opening of the same, shall pay an additional fine of twenty-five dollars for each day such creamery, cheese factory or cream station is illegally operated. The Commissioner of Agriculture or any of his authorized agents shall have the right to enter any creamery, factory, building, store, receiving station, railroad depot, express office or other place where dairy products, or substitutes therefor, are manufactured, sold or kept in storage or while in transit from one place to another, for the purpose of inspection of such dairy products or substitutes for the same, to obtain samples of the same for testing or analysis. It is expressly provided that such products shall include all butter, cheese, ice cream and other dairy products, all substitutes for dairy products and all substances made in imitation of the same, except whole milk, skimmed milk, evaporated or condensed milk or powdered milk, or any product of which the word "milk" either alone or in connection with any other word or words is used to designate the same, or any liquid or substances made or sold or offered for sale as a substitute for, or made in imitation of the same.

Com'r of agriculture has right of inspection.

Products include what.

Refusal to permit inspection.

INTERFERENCE WITH OFFICER IN PERFORMANCE OF HIS DUTIES. Whosoever shall refuse to allow the inspection herein provided for, or shall in any way hinder or obstruct the officers of the State Department of Agriculture, Labor and Industry in the proper performance of their duties as described in the provisions of this Act, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars or by imprisonment in the county jail for not less than ten days, nor more than thirty days, or by both such fine and imprisonment.

Penalty.

Section 10. That Section 3571 of the Revised Codes of 1921, be, and the same is hereby amended to read as follows:

Standard measure for milk.

Section 3571. STANDARD MEASURE FOR DAIRY PRODUCTS. The standard measure of capacity for milk shall be the gallon containing two hundred thirty-one

HeinOnline -- 1923 80 1923

cubic inches, the half gallon shall contain one hundred fifteen and five-tenths cubic inches, and the quart one-fourth as much as the gallon, and the pint one-half as much as the quart.

Butter measure

STANDARD BUTTER MEASURE. The standard measure for the sale of butter and cheese in the State of Montana shall be sixteen ounces (avoirdupois weight) to the pound, when wrapped or put in container, exclusive of the wrapper or container. Where weight and measure are stated in pounds or ounces, they shall be exclusive of the wrapper or other container, and each pound shall contain sixteen ounces, each ounce four hundred and thirty-seven and one-half grains. All packages of butter weighing less than sixteen ounces avoirdupois, shall be of a net weight which is a binary submultiple of sixteen ounces, which is eight ounces, four ounces, or two ounces. Any person, persons, firm or corporation, selling or offering for sale, any article of dairy products as a pound, or any multiple thereof, the net weight of which is less than sixteen ounces. or the proper multiple thereof, to represent the number of pounds sold or offering for sale, shall be guilty of a misdemeanor; provided, a reasonable variance be permitted, and that tolerance shall be established by rules and regulations made by the Commissioner of Agriculture, in accordance with the provisions of this Act.

Penalty

Maker's name on pkgs.

MAKER'S NAME ON PACKAGE CONTAINING BUTTER. That butter sold in the State of Montana whether manufactured on a farm or in a creamery, must have the maker's name clearly written or printed in a conspicuous place on the outside of the package in which it is sold, and upon each pound package of butter so sold or offered for sale the words "net weight sixteen ounces" or "net weight one pound" shall appear.

Pound pkgs. so branded.

Section 11. That Section 3282 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

License for manufacture of dairy products.

Section 3282. LICENSES FOR PRODUCERS OF DAIRY PRODUCTS. It shall be unlawful for any persons, firm or corporation to conduct any dairy or milk plant, condensed milk factory, powdered milk factory, where either whole or skimmed milk is used for purposes of manufacture into powdered milk within the State of Montana, without first securing a license issued by the

HeinOnline -- 1923 81 1923

Period of license.

Revocation of license by sanitary board.

License fees to general fund.

Livestock Sanitary Board, which license shall expire on the last day of December of the current year in which it is issued; provided, also that said license may be revoked at any time by the Livestock Sanitary Board or State Veterinary Surgeon when they, or he, shall determine that the person to whom a license is issued has failed to comply with the rules and regulations of the Livestock Sanitary Board or failed to conduct such an establishment in a sanitary manner. All license fees collected under the terms of this Section shall be paid into the general fund. The following schedule of license fees shall be charged for all licenses issued under the provisions of this Section by the Livestock Sanitary Board.

SCHEDULE OF LICENSE FEES.

Schedule of license fees.

Dairies of twenty cows or less, selling milk or cream or both, shall pay an annual license fee of one dollar.

Dairies of over twenty cows, selling milk or cream, shall pay an annual license fee of two dollars and fifty cents.

Milk plants shall pay an annual license fee of ten dollars.

Condensed milk factories or powdered milk factories having an output of less than 500,000 pounds shall pay an annual license fee of five dollars.

Condensed milk factories or powdered milk factories having an output of more than 500,000 pounds, shall pay an annual license fee of twenty-five dollars.

Section 12. If any Section of this Act shall be declared unconstitutional for any reason, the remainder of the Act shall not be affected thereby.

Section 13. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 14. This Act shall be in full force and effect immediately upon its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 36.

An Act to Amend Section 3202 of Chapter 202, of the Revised Codes of 1921, Providing a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3202 of Chapter 202 of the Revised Codes of 1921 be, and the same is hereby amended to read as follows:

HeinOnline -- 1923 82 1923

"Section 3202. Any person, either principal or agent, except such persons as are duly authorized by law, having possession or control of any drug mentioned in Chapter 202 Laws of 1921 (Sections 3189 to 3201, both inclusive, Revised Codes of Montana of 1921) shall upon conviction, be punished by a fine of not less than $500.00 and imprisonment in the state penitentiary of one year, nor more than $3,000.00 and five years imprisonment in the state penitentiary. Penalty for possession of certain drugs.

"Any person, either as principal or agent, who sells, barters, exchanges, distributes, gives away or in any manner disposes of any drug mentioned in Chapter 202 Laws of 1921 (Sections 3189 to 3201, both inclusive, Revised Codes of Montana of 1921) contrary to the provisions of said Act, shall upon conviction, be punished by a fine of not less than $1,000.00 and by five years imprisonment in the state penitentiary, nor more than $3,000.00 fine and ten years imprisonment in the state penitentiary." Penalty for sale of certain drugs.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 37.

An Act to Amend Section 2083 of the Revised Codes of Montana, 1921, Relating to Bounties on Predatory Animals.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2083 of the Revised Codes of Montana, 1921, be, and the same is hereby amended to read as follows:

Section 2083. The petition provided for in Section 2082 of the Revised Codes of Montana, 1921, shall be signed by the owners, agent, or agents of not less than fifty-one per cent. of the livestock of such county as ascertained from the assessment-books of such county, and shall recommend to the board of county commissioners the bounties to be paid on such predatory animals, which shall not exceed the following: On each wolf or mountain lion, one hundred dollars; on each wolf pup or mountain lion kitten, twenty dollars; on each coyote, Signers required on petition. Bounties on predatory animals.

HeinOnline -- 1923 83 1923

five dollars; on each coyote pup, two dollars fifty cents.

When petition shall be presented.

Such petition shall be presented not later than the first day of August of each year, and the board of county commissioners on determining the sufficiency of such petition shall make an order granting such petition, which said order shall fix the levy for that year, and

Order of com'rs fixing levy and amount of bounties.

the amount of the bounties to be paid for the killing of each such predatory animal, which shall not exceed the amounts recommended in such petition, and appoint not less than ten, nor more than twenty, stockowners of such

Bounty inspectors.

county to be bounty inspectors under this Act, without compensation, who shall hold their offices for one year.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 27, 1923.

CHAPTER 38.

An Act Relating to the Issuing of Bonds, Requiring the State of Montana and All Political Subdivisions of the State and Other Taxing Units Having the Power of Issuing Bonds to Give Preference to Amortization Bonds; to Accept Serial Bonds Only When Amortization Bonds Can Not Be Negotiated to Good Advantage: Defining These Two Classes of Bonds; and Repealing Acts and Parts of Acts in Conflict With the Provisions of this act.

Be it enacted by the Legislative Assembly of the State of Montana:

Bonds payable amortization plan, when.

Section 1. Whenever the State of Montana, or any county, city, town, school district, or any other taxing unit in the State of Montana having the power to issue and negotiate bonds, does hereafter issue its bonds, such bonds shall be payable on the amortization plan if bonds in this form can be sold and disposed of at a reasonable

Serial bonds.

rate of interest. If amortization bonds can not be negotiated at such reasonable rate of interest, advantageous to the people for whose benefit the same are issued, then in such case, serial bonds may be issued in place of amortization bonds.

Amortization bond, defined.

Section 2. Definition of Terms. 1. The term "amortization bonds" is hereby defined as meaning that kind of bonds on which part of the principal is required

HeinOnline -- 1923 84 1923

to be paid each time interest becomes due and payable, which part payment on the principal increases at each succeeding installment in the same amount that interest payment decreases, so that the combined amount due on principal and interest on each succeeding due date remains the same until the bond is paid in full.

"Serial bonds" defined.

2. The term "serial bonds" is hereby defined as meaning that form of bonds under which one or more individual bonds become due and must be paid at regular intervals during the term for which the bonds were issued, so that the last bond will be taken up and paid at the expiration of the term for which the bonds were issued.

Consideration of bids.

Section 3. In considering bids for various classes of bonds, the board or officers negotiating the same, shall take into account not only the rate of interest offered or demanded on the various classes, but also what rate of interest can be realized on such sinking funds as may be required for the payment of serial bonds, and also every other known element affecting the total cost of the bond when paid in full. That kind of bond shall be issued which in the totality of its effect is the most advantageous to the borrower. Provided, however, that this Act shall not be so construed as to authorize a higher rate of interest on any kind or class of bond than six percentum per annum.

Kind of bond issued.

Contents of notice of sale.

Section 4. The notice given of the sale of any of the bonds covered by sections 1 and 2 of this Act shall have included therein information to the effect that amortization bonds are the first choice and that serial bonds are the second choice. The inclusion of this information as to the order of preference of these kind of bonds in the notice of sale, shall be deemed to be an essential part of such notice, and the omission of this information shall invalidate the issuance of the bonds under such notice.

Notice of sale to register state lands.

Section 5. A copy of the notice of sale of any kind of the bonds covered by this act shall be forwarded to the Register of State Lands of the State of Montana in ample time before the date of sale.

Section 6. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Section 7. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

HeinOnline -- 1923 85 1923

CHAPTER 39.

An Act Prescribing the Penaly for Unlawfully Giving Away, Selling or Disposing of Intoxicating Liquor to a Minor.

Be it enacted by the Legislative Assembly of the State of Montana:

Penalty for disposing of liquor to minor.

Section 1. Any person who shall unlawfully sell, give away or dispose of intoxicating liquors to a minor shall be guilty of a misdemeanor, and, for the first offense, be punishable by a fine of not less than Two Hundred and Fifty Dollars, nor more than One Thousand Dollars, and by imprisonment for not less than six months nor more than two years in the county jail, and, for the second and subsequent offenses, he shall be guilty of a felony and punishable by a fine of not less than Five Hundred Dollars nor more than Two Thousand Dollars, and by imprisonment in the state penitentiary for not less than one year nor more than two years.

Section 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

CHAPTER 40.

An Act to create a State Board of Hail Insurance, Defining the Duties and Powers of Said Board and Public Officers in Connection Therewith; Providing for the Levy and Collection of Taxes on All Lands Subject to Injury or Destruction by Hail of All Tax Payers Who May Elect to Become Subject to the Provisions of This Act; Providing for Crop Liens in Certain Instances Where the Applicant Is Not the Owner of Land; Providing for Hail Insurance Fund; Providing for the Appointment of Appraisers, the Appraisal and Adjustment of Losses and the Settlement Therefor; Providing for the Foreclosure of Liens; Providing for the Exemption of Benefits From Execution and Attachment; and Amending Sections 350, 351, 352, 354, 355, 358, 360, 361 and 363, Revised Codes of Montana of 1921, and by Adding Three New Sections to Be Numbered 350-A, 350-B, and 354-A, and Repealing All Acts and Parts of Acts in Conflict Herewith.

HeinOnline -- 1923 86 1923

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 350, Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

"Section 350. There is hereby created a State Board of Hail Insurance of five members consisting of the State Treasurer, and the Commissioner of Agriculture, Labor and Industry, who will be secretary of state board, and three other members to be appointed by the Governor from the names submitted therefor by the duly organized farmer societies having a general membership throughout the state. The Governor shall designate one of said appointive members to serve for three years to act as chairman of the board, one to serve for a term of two years, and one to serve for a term of one year. Whenever the term of any member shall expire, either by death, resignation, or removal for cause, or expiration of his term of office, the Governor shall appoint his successor, and shall also appoint one of the board for chairman in case of a vacancy in that office. Each appointive member of the board shall be appointed for three years, except where such appointment is made to fill a vacancy on the board, in which event such appointee shall fill out the unexpired term of the member whose place he fills. All members of the Board shall be subject to removal for cause by the Governor; the said board shall hold meetings when necessary and essential for the proper conduct of its business, at the State Capitol in the office of the Secretary, and is hereby authorized, directed and empowered to make such rules and regulations as it may from time to time find practical, necessary and beneficial for the conduct of the department of Hail Insurance, subject to the provisions of this Act. It shall have full charge of said department as herein provided for; it shall prepare blank forms for all purposes necessary, proper and incidental to the effective operation and enforcement of this Act, and furnish such forms to all public officers respectively charged with the performance of any official duty in connection therewith; it shall prepare a special form outlining the purposes, scope and benefits of this act in furnishing protection against loss by hail, at the actual cost of the risk to all tax payers who may elect to become subject to the provisions of this Act, such form to be submitted by the county assessor of each county at the time in which the regular assessments of property are by such assessors made, to each farmer in

State board of hail insurance.

Governor to designate appointive members.

Term of office.

Vacancy filled by appointment.

Term of appointment.

Members subject to removal.

Meetings held when.

Adoption of rules.

Powers of board.

Forms.

Special form outlining purpose of act.

Form submitted by county assessor to whom.

HeinOnline -- 1923 87 1923

each county in the state engaged in growing of crops subject to injury or destruction by hail, on which forms each such farmer tax payer shall signify whether he desires to become subject to the provisions of this Act or not. Every such farmer tax payer who signifies his desire to become subject to the provisions of this Act, shall file in the office of the county assessor the blanks above referred to, properly filled out not later than August 15th, and shall be chargeable with the tax on lands growing crops subject to injury or destruction by hail, hereinafter provided for, and shall share in the protection and benefits under the hail insurance provisions of this Act. Such application for hail insurance shall be in full force and effect at noon the day following the acceptance of the same by the county assessor. Provided, however, that this Act shall not be so construed as to empower anyone except the actual owner of the land to make such land subject to the hail tax provided in this Act."

Farmers must signify intention.

Farmer must file blanks when.

Subject to tax.

Application effective when.

Construction of act.

Section 2. That a new section be added to read as follows:

"Section 350-A. No more than Ten Dollars ($10.00) insurance shall be written on each acre of grain. When more than one party desires hail insurance each shall be entitled to the share of the maximum represented by his interest in the crop. Either party may insure his share in the crop for any amount up to and including the maximum per acre if the others waive their right to insure."

Insurance per acre.

Insurance for more than one person.

Section 3. That a new section be added to read as follows:

"Section 350-B. No owner of land who has more than one year's delinquent taxes on his land shall be allowed hail insurance under the provisions of this Act, unless his application is accompanied by a cash payment for the amount that would be due on said application in the event of a maximum levy for that year. Provided, however, any grain grower unable to secure state hail insurance under the provisions of this Act on account of delinquent taxes or for other reasons, may make application to the county assessor of his respective county and said county assessor is hereby authorized to receive and accept such applications where the applicant furnishes a sufficient crop lien subject only to a seed lien. Provided, that such crop lien shall be accepted only under such rules, regulations and requirements as may be

Prohibition account.

Delinquent taxes.

Application to county assessor.

Crop lien.

HeinOnline -- 1923 88 1923

prescribed by the State Board of Hail Insurance and providing that the State Board of Hail Insurance may cancel any hail insurance accepted in violation of said rules, regulations and requirements. Upon receipt of said application the county assessor shall make record thereof and shall file the original in the office of the clerk and recorder of said county."

Hail insurance cancelled when.

Record of application.

Section 4. That Section 351 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

"Section 351. A tax is hereby authorized and directed to be levied on all lands in this state growing crops subject to injury or destruction by hail, the owners of which have elected to become subject to the provisions of this Act. The State Board of Hail Insurance shall annually estimate as near as may be possible, the amount required to pay all losses, interest on warrants and costs of administration, and shall recommend a levy to be made on each kind of land respectively, subject to the provisions of this Act, to the State Board of Equalization; provided, however, that such tax shall not exceed in any one year the sum of One Dollar ($1.00) per acre on lands sown to grain crops, nor Fifty Cents (50c) per acre on lands sown to hay crops; and provided further, that if the tax required to pay the estimated losses, interest on warrants and costs of administration be less than Fifty Cents (50c) per acre on lands sown to grain crops, and a proportionate amount on lands sown to hay crops, the said board of Hail Insurance must recommend a tax levy sufficient to raise the full amount thereof. In addition to the lien created above on the land of the insured, the levy for such hail insurance shall also constitute a lien on the crops insured. Said lien shall be enforced in the same manner as provided in Section 7 of this Act, and all applications for hail insurance shall be in such form as to constitute the lien herein provided.

Levy of tax.

Board shall estimate.

Recommend levy to board of equalization.

Limit of tax.

Where tax is less than 50c per acre.

Lien on crops.

Lien enforceable how.

The said Board of Equalization is hereby empowered and it is made its duty to prescribe such levies annually to be made against lands growing crops subject to injury or destruction by hail which are subject to this Act, in accordance with the recommendation of the State Board of Hail Insurance. Such tax levies respectively shall be chargeable to the lands of each taxpayer who shall elect to become subject to this Act and shall be extended on the tax roll and collected by the officers charged with such duties in the manner and form as are other pro-

Equalization board to prescribe levies.

Levies chargeable to what.

HeinOnline -- 1923 89 1923

Lien on lands.

perty taxes and if not paid shall be a lien on the lands against which the same are levied as are other property taxes. Provided, however, that the lien as provided above shall in no way affect mortgages that are of record at the time of the approval of this Act. The lien of any mortgage filed subsequent to the passage and approval of this Act shall be subsequent to any lien for hail insurance hereafter levied thereon. All applicants securing hail insurance on crop liens as heretofore provided shall be subject to the same charges per acre as provided herein to be made on land. Notice of such assessment shall be mailed to each person insured by the county treasurer in the same manner as are all other notices of taxes due. Said assessment shall be payable at the office of the county treasurers of each respective county.

Lien not to affect mortgages of record.

Subsequent lien.

Applicants subject to charges.

County treasurer to mail notice of assessment.

Assessment payable where.

Districts established by board.

Maximum rates.

The State Board of Hail Insurance may when they deem it advisable establish as many districts as it deems advisable and may maintain maximum rates in various parts of the state which rates shall be commensurate with the risk incurred as nearly as they can determine from past experiences or from any records available. The highest of these rates shall be the same as the maximum established herein and the lowest shall not be less than fifty cents (50¢) per acre on lands sown to grain crops, and a proportionate amount on lands sown to hay crops. Notice of the various rates established for any year shall be plainly printed on the applications for hail insurance, and in any year when the requirements of the hail insurance law as herein provided do not require a levy of the maximum rates as established, then the rates for the year shall be determined and levied by the State Board of Hail Insurance for each of the various districts as established, in such proportion as will in their judgment be fair and equitable."

Minimum.

Rates to appear on applications.

When no levy required, procedure.

Section 5. That Section 352 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Levy shall provide for what.

"Section 352. In making the levy provided in the preceding section the State Board of Hail Insurance shall provide for:

1. The payment of all expenses of administration, together with all interest owed or to be owing on registered warrants.

HeinOnline -- 1923 90 1923

2. For that portion of the losses incurred during the current year which are not paid from funds drawn from the reserve fund.

3. For the maintenance of the reserve fund, a part or all of which may be used in any one year for the purpose of paying the costs of administration, interest on the warrants and losses as the same shall be settled and adjusted by the said Board.

When losses are less than 70c per acre.

Whenever the losses together with the expenses and costs of administration in any one year shall amount to a less amount than the sum of seventy cents (70¢) per acre for every acre of grain insured and a proportionate amount on hay crops, the State Board of Hail Insurance may levy such amount as they may consider proper and just for the purpose of providing a reserve fund, providing, however, that such levy when added to the amount necessary to pay costs of administration, interest and losses for the current year shall not exceed the sum of seventy cents (70¢) per acre on lands sown to grain crops and a proportionate amount on hay crops and provided further that in any one year there shall not be added to the reserve fund an amount greater than the sum of five per cent (5%) of the total risk for that particular year and provided further, that the amount of said reserve fund shall not exceed the sum of one million dollars. The reserve fund hereby created shall be a continuous fund and the State Board of Hail Insurance is hereby granted the power to draw from said fund such amounts as it may deem necessary for the purpose of paying costs of administration, interest and losses and provided further, that whenever in any one year the costs of administration, interest and losses shall be less than the sum of fifty cents (50¢) per acre on lands sown to grain crops and a porportionate amount on hay crops the State Board of Hail Insurance shall not draw on the reserve fund for any purpose, unless the amount required for the payment of losses, interest on warrants and costs of administration shall exceed the amount of the estimate made by the State Board of Hail Insurance."

When levy not to exceed 70c per acre.

Limit to reserve fund.

Reserve fund continuous.

Board may draw from fund.

When losses less than 50c per acre.

Section 6. That Section 354 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Duty of county treasurer to collect levies.

"Section 354. The County Treasurer in each county in the state shall collect all levies made under this Act in the same manner as other property taxes are collected

HeinOnline -- 1923 91 1923

Hail insurance fund.

and shall keep all monies collected by him for hail insurance in a separate fund to be known as the Hail Insurance Fund and remit same to the State Treasurer in the same manner as provided by law for the remittance of other monies due to the state. All county treasurers shall use due diligence in making the collections of the levies provided herein. Also the State Board may furnish assistance needed at any time in making collections or may take over the collection of any levy at any time, depositing any collections therefrom with the treasurer of the county where the levy therefor was made. Whenever the amount due on any hail insurance secured by a crop lien is paid the treasurer shall promptly endorse on the lien on file in the office of the county clerk and recorder the amount paid thereon with the date of payment and such endorsement shall be a satisfaction and release of such lien."

Diligence in collection of levies.

Board may assist.

Payment of amount due.

Release of lien.

Section 7. That a new section be added to read as follows:

Failure to pay insurance.

"Section 354-A. If the person receiving hail insurance secured by a crop lien fails to pay said insurance to the county treasurer by January first of the year following the year in which the crop so insured is grown the county treasurer shall after the first day of January deliver to the sheriff of said county a full, true and correct copy of the lien on file in the office of the clerk and recorder and such sheriff must immediately demand from the person or persons signing such lien, payment of the amount due thereon, and if the same is not paid to the sheriff upon such demand being made, the sheriff must forthwith seize and sell in the manner provided by law for the sale of personal property under execution, a sufficient amount of grain belonging to such person to pay the amount due for hail insurance together with interest and costs and expenses of seizure and sale."

Duty of county treasurer.

Duty of sheriff.

Execution sale of grain.

Section 8. That Section 355 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Duty of state treasurer.

"Section 355. The State Treasurer shall receive all monies paid to him under this Act and shall place same to the credit of a fund to be known as the State Hail Insurance Fund and may from time to time transfer to the Hail Insurance Administrative Fund such sums as the State Board may deem necessary and proper to pay the expenses of administration together with such sums as may be needed to pay all the warrants registered

Transfer of funds.

HeinOnline -- 1923 92 1923

against the Hail Insurance Administrative Fund, plus the accrued interest thereon, and shall pay out of such funds on warrants drawn by the State Auditor by order of the State Board of Hail Insurance. If such warrants be presented and there be no money in the said funds to pay the same, such warrants shall be registered and thereafter bear interest at the rate of four percent per annum until called for payment by the State Treasurer. All interest and earnings obtained by the State Treasurer for such monies shall be credited to the respective funds. If at any time more funds are in the Administrative Fund than the Board estimates are needed for the purposes mentioned above, the State Treasurer may on the order of the State Board of Hail Insurance transfer such funds back to the Hail Insurance Fund as the State Board may direct."

Payment of warrants.

Warrants registered.

Retransfer of funds.

Section 9. That Section 358 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

"Section 358. That all losses by hail to crops insured under this Act shall be reported within three (3) days thereafter by the owner of such crops, his agent or attorney to the State Board of Hail Insurance, who shall require the claimant to make a statement of the losses sustained, the cause thereof and such other information as the State Board of Hail Insurance may require, on the forms to be provided for such purpose."

Report of losses.

Section 10. That Section 360 of the Revised Codes of 1921, be and the same is hereby to read as follows:

"Section 360. In case the party that has sustained the loss is dissatisfied with and refuses to accept the adjustments made by the official appraisers then he shall have the right to appeal to the State Board of Hail Insurance, provided however, he shall make such appeal by registered mail within four (4) days after such disagreement. In case the adjuster who makes the second appraisal fails to secure an agreement the claimant shall then appoint one disinterested person as appraiser, and the official appraiser shall appoint another person as appraiser, and the two shall select a third disinterested person, and the three shall then proceed to adjust the loss in the same manner as specified in Section 359 and the judgment of the majority shall be the judgment of said appraisers and shall be binding upon both parties as the final determination of said loss; provided, however,

Appeals, right of.

Appraisers appointed.

Judgment.

HeinOnline -- 1923 93 1923

Adjustment expenses, paid by whom.

that if the insured does not recover a greater sum than allowed by the official appraiser in the first instance, he shall pay the expenses of the said three appraisers and their witnesses in making said adjustment, but if he is awarded a larger sum then the same shall be paid by the State Board of Hail Insurance out of the Hail Insurance Fund.

Deduction from settlement when insured pays expense.

If the insured shall be required to pay the expenses of such re-appraisement as above provided, the State Board of Hail Insurance is hereby authorized to deduct the amount of such expenses from the amount allowed said insured before making settlement for said loss.

Cash bond by claimant.

Provided, also, that where any claimant demands arbitration he shall, if required by the Board, furnish a cash bond to the State Board of Hail Insurance in the sum of Ten Dollars, ($10.00) which shall accompany his application.

Forfeiture..

If there is not sufficient allowance made to any claimant after arbitration to cover the cost of arbitration without the use of the Ten dollars, ($10.00) forfeit, then the State Board may use a part or all of said cash bond. Any forfeits so collected shall be placed promptly in the State Hail Insurance Fund. In cases where the claimant secures an increase the bond shall be promptly returned to the claimant.

Board's duty examining appraisements.

The State Board of Hail Insurance shall examine all reports of appraisers and verify the same, and adjust all losses, and for such purposes may order hearings, subpoena witnesses, and conduct examinations and do all things necessary to secure a fair and impartial appraisement of losses by hail."

Section 11. That Section 361 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Method of payment of losses.

"Section 361. The State Board of Hail Insurance shall, as soon as practicable after the loss has been sustained, arrange for the payment of the losses as follows: From the amount of the loss as adjusted for each claimant the State Board of Hail Insurance shall deduct the amount the claimant then owes as delinquent hail insurance tax and the maximum amount assessed as hail insurance tax for the current year, and shall make settlement within forty (40) days from the time loss is sustained in the following manner: By paying, either by registered warrant or otherwise if funds are immediately available, fifty per cent of the total loss as agreed on, less, however, the maximum rate of the assessment; bal-

HeinOnline -- 1923 94 1923

ance to be paid at the expiration of the hail season. The State Board of Hail Insurance shall, on or before November first, order the State Auditor to draw a warrant for the amount so deducted on the State Hail Insurance Fund, which warrant shall be remitted to the county treasurer of the county in which the tax was assessed. The State Board of Hail Insurance shall then order the State Auditor to draw a warrant on the State Hail Insurance Fund for the balance of the adjustment which warrant shall be sent to the claimant; provided, however, that in no case shall the payment for loss exceed Ten Dollars, ($10.00) per acre for grain crops, and Five Dollars, ($5.00) per acre for hay crops; provided, further, that no claimant shall receive payment for any loss incurred where said loss does not exceed five percent (5%) of the total value of the crop insured. Also if the losses in any year should exceed the current levy plus the reserve fund, if any, then the payment of all losses shall be prorated share and share alike among all grain growers having loss claims adjusted and approved. In any year the State Board of Hail Insurance may by resolution authorize its chairman and secretary to borrow as needed from any person, bank or corporation such sum or sums of money as the State Board may deem necessary to carry on the business of the department and for the purpose of paying all warrants as issued. For any monies borrowed under the provisions of this Act, the State Board of Hail Insurance shall cause warrants to be drawn against the State Hail Insurance Fund and said warrants shall bear interest at not to exceed six per cent (6%) per annum and said warrants and the interest thereon shall be paid out of funds from the State Hail Insurance Department as they are collected from the various counties in the State. The State Board of Hail Insurance shall not at any time borrow a total sum greater than the amount of the levies as made for taxes for the current year, together with such delinquent taxes as remain unpaid on the books of the County Treasurer. The State Board of Examiners is hereby empowered to invest surplus money belonging to any fund in the warrants of the Hail Insurance Fund."

Payments not to exceed what amounts.

Where losses exceed current levy and reserve fund.

Authority to borrow money.

Interest on warrants.

Borrowing limit.

Investment of surplus money.

Section 12. That Section 363 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

"Section 363. It shall be the duty of all public officers to perform the duties relative to hail insurance un-

Compensation of members.

HeinOnline -- 1923 95 1923

der this Act, without other compensation that that allowed by law. The Chairman of the State Board of Hail Insurance shall receive a salary of Two Hundred Dollars, ($200.00) per month while actually engaged in service and actual travelling expenses, and all appointive officers under this Act shall be paid their actual travelling expenses and shall be allowed such per diem as the State Board of Hail Insurance may determine for each day of eight hours while actually engaged in service under this Act, out of the Hail Insurance Administrative Fund.

Annual financial report.

The Chairman of the State Board of Hail Insurance shall each year submit a full financial report of the operations of the department to the Governor of the State."

Benefits from hail insurance exempt from execution.

Section 13. All money or benefits received from hail insurance shall be exempt from execution and shall not be liable to attachment nor to be seized, taken nor appropriated by any local process to pay any debt or liability of the insured unless the amount shall be assigned and then for no more than the amount of the claim intended to be secured by the assignment with lawful interest.

Section 14. That all Acts and parts of Acts in conflict herewith are hereby repealed.

Section 15. This Act shall be in full force and effect from and after its passage and approval.

Approved, Feb. 28, 1923.

CHAPTER 41.

An Act to Amend Sections 3574, 3575, 3579, 3588 and 3589 of the Revised Codes of Montana of 1921, Relating to Public Grain Warehouses, the Regulation of Their Charges, Defining the Rights of Owners of Grain Stored in Public Warehouses, and to Amend Chapter 254 of the Revised Codes of Montana of 1921, by Adding Thereto, Two New Sections to be Known as Sections 3588 (a) and 3588 (b), Forbidding the Sale of Stored Grain and Defining Storage of Grain as a Bailment, and One New Section to be known as 3589 (a), Providing Protection for Holders of Warehouse Receipts in Case of Insolvency.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1923 96 1923

"Public warehouse" defined.

Section 1. The term "public warehouse" includes any elevator, mill, warehouse, or structure in which grain is received from the public for storage, shipment or handling, whenever such grain is carried or intended to be carried to or from such warehouse, elevator, mill or structure by common carrier. The term "public warehouseman" shall be held to mean and include every person, association, firm and corporation owning, controlling or operating any public warehouse in which grain is stored or handled in such a manner that the grain of various owners is mixed together, and the identity of the different lots or parcels is not preserved.

"Public warehouseman" defined.

"Grain dealer" defined.

The term "grain dealer" shall be held to mean and include every person, firm, association and corporation owning, controlling or operating a warehouse, other than a public warehouse, and engaged in the business of buying grain for shipment or milling in carload lots.

"Track buyer" defined.

The term " track buyer" shall mean and include every person, firm, association and corporation who engages in the business of buying grain for shipment or milling in carload lots, and who does not own, control, or operate a warehouse or public warehouse.

"Agent," etc., defined.

The terms "agent," "broker," and "commission man" shall mean and include every person, association, firm and corporation who engages in the business of negotiating sales or contracts for grain or of making sales or purchases for a commission.

Section 2. That Section 3575 of the Revised Codes of 1921 be, and the same is hereby, amended to read as follows:

Duty expert tester of scales.

"Section 3575. The Commissioner of Agriculture shall employ an expert tester of scales, whose duty it shall be under such rules and regulations as the Commissioner may prescribe to test the scales within this state where grain is weighed at elevators and public warehouses; also to test all wagon scales, coal scales and track scales in the State of Montana where grain is weighed for the public. The person employed by the Commissioner of Agriculture as an expert tester of scales shall collect from such person, firm, co-partnership or corporation for each track scale tested Ten ($10.00) Dollars; for each wagon scale, coal scale, dump scale and shipping scale, Five ($5.00) Dollars; and for each portable scale and grain tester One ($1.00) Dollar."

Collection of fees for testing.

HeinOnline -- 1923 97 1923

Section 3. That Section 3588 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

Delivery of grain, or market value, when.

"Section 3588. Upon the return of the receipt to the proper warehouseman, properly endorsed, and upon payment or tender of all advances and legal charges, grain of the grade, quality and quantity named therein shall be delivered to the holder of such receipt within forty-eight hours after the facilities for receiving the same have been provided, or at the option of the owner, such warehouseman shall deliver such grain at terminal, or if mutually agreed, the equivalent market value thereof on said date, less any freight and storage charges to terminal, and such other charges as may be allowed by the Commissioner of Agriculture.

Written instructions to warehousemen for cars, loading, etc.

Owners of warehouse receipts surrendered for shipment shall furnish the warehouseman with written instructions regarding the capacity of cars to be ordered from the transportation company, and as to the manner of loading and billing shipments made in such cars as are furnished by the transportation company.

Duty and liability of warehousemen.

The warehouseman shall load and bill all such shipments in exact accordance with instructions given, and shall be liable to the owner of the warehouse receipt so surrendered for the amount of any excess freight paid, or for other damages suffered by the owner of the warehouse receipt, resulting from the failure of the warehouseman to follow accurately the loading and billing instructions as given him, provided, that the owner of said warehouse receipt shall immediately furnish to said warehouseman a duplicate copy of the original state weighmaster's certificate of weight of said car lot shipment at terminal.

Average sample in disputes to chief inspector.

If any dispute or disagreement arises between the party receiving and the party delivering the grain at any public warehouse in this state as to the proper grade or dockage, or both, of any grain, in accordance with standards at terminal points, an agreed average sample of at least two quarts of said grain in dispute may be taken by the parties interested, and forwarded in a suitable container, mail or express charges prepaid, with the names and addresses of the parties, to the Chief Grain Inspector, Great Falls, Montana, or the State Grain Laboratory, Bozeman, Montana, who will, upon request,

Duty of chief inspector.

examine said grain and adjudge what grade said sample of grain is entitled to under the inspection rules and

HeinOnline -- 1923 98 1923

what amount of dockage it contains, and the findings of such inspection shall be binding upon both parties, subject to appeal as hereinafter provided. If the grain in question is damp, musty or otherwise out of condition, this fact with any other necessary information must accompany sample."

Inspection binding on both parties.

Section 4. That Chapter 254 of the Revised Codes of 1921 be, and the same is hereby, amended by the addition of two new sections to be known as Sections 3588 (a) and 3588 (b), to read as follows:

"Section 3588 (a). No such warehouseman shall sell or otherwise dispose of, or deliver out of store, except to the owner, any stored grain, except upon notice, in advance, to the Department of Agriculture, and after complying in full with the laws of the state and the regulations of the Department of Agriculture relating to the handling of stored grain. Any person, firm, association or corporation owning or operating more than one public warehouse in this state shall be permitted to make delivery of wheat from one warehouse in settlement of warehouse receipts issued for grain stored in another warehouse, when grain for storage has been presented at any warehouse in excess of its available storage capacity. Provided, that this shall not be construed as conferring upon such warehouseman a right to make delivery of grain of substantially lower value than that delivered for store, though of the same technical grade, in settlement of warehouse receipts; and provided further, that such warehouseman shall, at all times, keep on hand in bonded warehouses grain of quality and quantity sufficient to settle all outstanding storage receipts. Provided, further, that freight and other charges shall be figured on the basis of the point of receipt."

Delivery of grain by warehouseman to whom.

Where special warehouses owned by one operator.

Provisions.

"Section 3588 (b). Whenever any grain shall be delivered to any person, association, firm or corporation doing a grain, warehouse or grain elevator business in this state, and the receipt issued therefor provides for the delivery of a like amount and kind, grade and quality to the holder thereof in return, such delivery shall be a bailment and not a sale of the grain so delivered, and in no case shall the grain so stored be liable to seizure upon process of any court in an action against such bailee, except action by owners of such warehouse receipts to enforce the terms thereof, but such grain shall at all times in the event of failure or insolvency of such bailee be first applied exclusively to the redemption of out-

When bailment exists and not sale.

Action against bailee, when.

HeinOnline -- 1923 99 1923

standing storage warehouse receipts for grain so stored with such bailee, and in such event grain on hand in any particular warehouse or elevator shall first be applied to the redemption and satisfaction of receipts issued by such warehouse."

Section 5. That Section 3589 of the Revised Codes of 1921 be, and the same is hereby, amended to read as follows:

Annual report by warehouseman.

"Section 3589. On June 30th of each year every warehouseman shall make report, under oath to the Commissioner of Agriculture, on blanks or forms prepared by him, showing the total weight of each kind of grain received and shipped from such warehouse licensed under the laws of Montana, and also the amount of outstanding storage receipts on said date, and a statement of the amount of grain on hand to cover the same. The Commissioner of Agriculture may also require special reports from such warehouseman at such times as the Commissioner may deem expedient. The Commissioner may cause every warehouse and business thereof and the mode of conducting the same to be inspected by his authorized agent, whenever deemed proper, and the books, accounts, records, papers and proceedings of every such warehouseman shall at all times during business hours be subject to such inspection. Any person, firm, or corporation, who shall knowingly falsify any of its reports to the Department of Agriculture, or who shall refuse or fail to make such reports when requested to do so by the Commissioner of Agriculture or his agents, or who shall refuse or resist inspection as provided in this section, shall be guilty of a misdemeanor and be punished by a fine of not less than Fifty ($50.00) Dollars nor more than Five hundred ($500.00) Dollars.

Contents of report.

Com'r may require special reports.

Inspection of warehouses.

Penalty.

Bond required of whom.

Each person, firm, corporation or association of persons operating any public warehouse or warehouses subject to the provisions of this act, and every track-buyer, dealer, broker, or commission man, or person or association of persons, merchandising in grain shall, on or before the first day of July of each year, give a bond with good and sufficient sureties to be approved by the Commissioner of Agriculture to the State of Montana, in such sum as the Commissioner may require, conditioned upon the faithful performance of the acts and duties enjoined upon them by the law.

Amount of bond.

License fees.

Every person or persons, firm, co-partnership, corporation, or association of persons, operating any public

HeinOnline -- 1923 100 1923

warehouse or warehouses, and every track-buyer, dealer, broker, commission man, person or association of persons merchandising grain in the State of Montana, shall, on or before the first day of July of each year, pay to the State Treasurer of Montana, a license fee in the sum of Fifteen ($15.00) Dollars for each and every warehouse, elevator, or other place, owned, conducted, or operated by such person or persons, firm, co-partnership, corporation or association of persons, where grain is received, stored and shipped, and upon the payment of such fee of Fifteen ($15.00) Dollars for each and every warehouse, elevator or other place, where grain is merchandized within the State of Montana, the Commissioner of Agriculture shall issue to such person or persons, firm, co-partnership, corporation or association of persons, a license to engage in grain merchandising at the place designated within the State of Montana, for a period of one year. Any person, firm, association or corporation who shall engage in or carry on any business or occupation for which a license is required by this act without first having procured a license therefor, or who shall continue to engage in or carry on any such business or occupation after such license has been revoked (save only that a public warehouseman shall be permitted to deliver grain previously stored with him), shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than Twenty-five ($25.00) Dollars nor more than One hundred ($100.00) Dollars, and each and every day that such business or occupation is so carried on or engaged in shall be a separate offense."

Com'r to issue license.

Penalty.

Section 6. That Chapter 254 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended by adding one new section to be known as Section 3589 (a) to read as follows:

"Section 3589 (a). When, because of insolvency, mismanagement, fraud, or for any other reason any warehouseman is found to be in position where he cannot, or where there is a probability that he cannot meet in full all storage obligations, it shall be the duty of the Department of Agriculture, through the Grain Division, to intervene in the interests of the holders of warehouse receipts, and the Department of Agriculture, shall have authority to do any and all things lawful and needful for the protection of the interests of the holders of warehouse receipts, and when examination by the

Dept. of agriculture to intervene in certain cases.

HeinOnline -- 1923 101 1923

Department of Agriculture shall disclose that for any reason it is impossible for any warehouseman to settle in full for all outstanding warehouse receipts without having recourse upon the bond filed by said warehouseman, it shall then be the duty of the Department of Agriculture for the use and benefit of holders of such unpaid warehouse receipts, to demand payment of its undertaking by the surety upon the bond in such amount as may be necessary for full settlement of warehouse receipts or other evidences of grain delivered in store and unpaid. It shall be the duty of the attorney general or any county attorney of this state to represent the Department of Agriculture in any necessary action against such bond when facts constituting grounds for action are laid before him by the Department of Agriculture."

May demand settlement on bond when.

Duty of att'y general.

Section 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 8. This act shall take effect and be in force from and after its passage and approval.

Approved, Feb. 28, 1923.

CHAPTER 42.

An Act to Amend Section 1415 of the Revised Codes of Montana, 1921, Relating to Appointment of, Removal and Salary of the Superintendent of the Insane Asylum and His Assistants.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1415 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

Supt. and asst. state asylum, appointment of.

"Section 1415. Superintendent of Asylum and Assistant. Appointment, Removal and Salary. A superintendent of the State Insane Asylum and an assistant superintendent, who shall be regularly licensed physicians of the State of Montana, shall be appointed by the Governor, and such appointments must be transmitted to and approved by the Senate. The tenure of office of the appointees shall be for a period of four years from the date of appointment, and until their successors have been appointed and qualified. The salary of the superintendent is hereby fixed at the sum of Four thousand ($4,000.00)

Term of office.

Compensation.

HeinOnline -- 1923 102 1923

Dollars per year, the salary of the assistant superintendent at Three thousand ($3,000.00) Dollars per year, payable in monthly instalments of one-twelfth each at the end of each and every month.

Perquisites.

The superintendent and the assistant superintendent in addition to the salaries above mentioned shall be entitled to draw from the asylum commissary food supplies for their respective families, not to exceed, however, in value the sum of Fifteen hundred ($1500.00) Dollars per year for each family. Such food supplies so drawn shall be accounted for to the Board of Commissioners for the Insane, in the same manner as other supplies used at the Insane Asylum.

Causes for removal.

They shall be subject to removal by the State Board of Commissioners for the Insane at any time for misfeasance, non-feasance, or malfeasance in office, but before the superintendent or the assistant superintendent be so removed, formal charges in writing must be preferred, and the superintendent or the assistant charged shall be given opportunity to appear and defend himself against any such charges. When charges shall have been preferred asking the removal of the superintendent or the assistant superintendent notice of the time and place of hearing of said charges shall be served upon the accused at least five days prior to the day set for the hearing; provided, however, that when such charges have been preferred, the State Board of Commissioners for the Insane shall have the power and authority to suspend the accused until after the determination of the charges preferred against him.

Charges in writing.

Notice of hearing.

Suspension pending determination hearing.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall take effect from and after its passage and approval.

Approved Feb. 28, 1923.

CHAPTER 43.

An Act to Amend Sections 587 and 588 of the Revised Codes of Montana of 1921 Relating to Judges of Election, How Appointed and Number of Judges to be Appointed.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1923 103 1923

Section 1. That Section 587 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

Appointment of judges of election.

"Section 587. Judges of Election—How Appointed. The Board of County Commissioners of the several counties at the regular session next preceding a general election, must appoint five judges of election for each precinct in which the voters therein, by the last registration, were two hundred or more and three judges of election for each precinct in which such registration was less than two hundred."

Section 2. That Section 588 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

Number of judges appointed.

"Section 588. Number of Judges to be Appointed. The Board of County Commissioners, notwithstanding the registration, may appoint five judges of each precinct in which upon information obtained by them they have reason to believe contains two hundred voters or more and three judges of election in precincts which upon information obtained by them, they have reason to believe was less than two hundred."

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

CHAPTER 44.

An Act to Authorize the Livestock Commission to Expend Moneys Collected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. All fees, earnings or moneys credited to the Livestock Commission Fund are hereby appropriated for the use of the Livestock Commission.

Section 2. All other acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

HeinOnline -- 1923 104 1923

CHAPTER 45.

An Act Establishing and Defining the Liability of Cities and Towns in This State for the Negligence or Mismanagement of Such Cities and Towns, and Their Offices, Agents, Servants or Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. No city or town in this state shall be liable in damages for any negligence or mismanagement on its part, or any negligence or mismanagement on the part of any officer, agent, servant or employee of such city or town in causing, permitting or allowing snow or ice to be, remain or accumulate on or in any road, street, alley, sidewalk, crosswalk or gutter within said city or town.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1st., 1923.

CHAPTER 46.

An Act to Amend Section 2191 of the Revised Codes of Montana of 1921, Relating to the Sale of Real Estate for Taxes Due Thereon.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2191 of the Revised Codes of Montana of 1921, be and the same hereby is amended to read as follows:

"2191. Designations of portions to be sold, purchase of least quantity or interest. Sale to County: The owner or person in possession of any real estate offered for sale for taxes due thereon, may designate, in writing to the county treasurer, prior to the sale, what portion of the property he wishes sold, if less than the whole, but if the owner or possessor does not, then the treasurer may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the portion of interest, and pay the taxes and interest and costs due, including fifty cents to the treasurer for the duplicate certificate of sale, is the purchaser. But in case there is no purchaser in good faith for the same, as provided in this chapter, on the first day that the property is offered for sale,

Owner may designate portion of property for tax sale.

Designation of portion by treasurer.

Who is purchaser.

Where no purchaser.

HeinOnline -- 1923 105 1923

Property struck off to county.

Certificate to co. treas. Fee.

Treasurer's entry on records.

Treasurer may assign interest when.

Certificates of sale heretofore issued valid.

then when the property is offered thereafter for sale and there is no purchaser in good faith for the same, the whole amount of the property assessed must be struck off to the county as the purchaser, and the duplicate certificate delivered to the county treasurer and filed by him in his office. No charge must be made for the duplicate certificate when the county is a purchaser; and in such case the County Treasurer must make an entry, 'Sold to the County', on the assessment book, opposite the tax, and he must be credited with the amount thereof in the settlement. The county treasurer is hereby authorized to assign the interest of the county in any property purchased at a tax sale upon the payment of the amount for which the property was sold with interest thereon from the date of sale, at the rate of twelve per cent per annum and the amount of all taxes then due upon said property. All certificates of sale heretofore issued to any county on the purchase by such county of real property sold at any delinquent tax sale and which certificates of sale are now held by such county, are hereby declared to be valid and subsisting certificates of sale for all purposes, notwithstanding any irregularities in the manner of publishing the delinquent tax list, or in holding such sale, or in selling such property or in the issuance of such certificates of sale, or in the form thereof, provided the taxes for which such property was sold were taxes authorized by law to be assessed against such property, and were lawfully assessed against the same and have not been paid, and provided further that such property was correctly described in a notice of delinquent tax sale which was actually published at least one time in a newspaper of general circulation in the county in which such property is situated."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

HeinOnline -- 1923 106 1923

CHAPTER 47.

An Act to Require Clerks of the District Courts to Keep Index Books for Indexing Bonds in Criminal Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Record books for bonds in criminal cases.

Section 1. That clerks of the District Courts of the counties in the state of Montana, shall hereafter keep proper books for indexing bonds given in criminal cases and all such bonds filed therein shall be entered showing the title and docket number of the case in which such bond is filed, the names of principals and sureties on such bonds in alphabetical order, the date and amount of the bond and upon its release, the date of the order or authority for such release.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 48.

An Act to Amend Section 2211 of the Revised Codes of Montana of 1921, relating to Redemption From Tax Sale and Payment of Tax by Incumbrancer.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2211 of the Revised Codes of Montana of 1921, be, and the same is hereby, amended to read as follows:

Redemption of property from tax sale.

"Section 2211. Whenever any person, firm, co-partnership, corporation, or association shall desire to redeem from a tax sale and pay all subsequent taxes upon any lots, piece, or parcel of real estate, which said person, firm, co-partnership, corporation, or association shall own or hold a mortgage or other lien against or have any interest in such property, it shall be the duty of the county treasurer of the county in which such real estate is situated to permit such redemption and payment; and in case the said real estate shall have been assessed or sold, together with other real estate, or in case the tax assessed against any other property shall be a lien thereon, then it shall be the duty of said county treasurer to compute and apportion the tax that should have properly

Duty of county treasurer.

Apportionment of tax. Where real estate assessed or sold, or tax lien exists.

HeinOnline -- 1923 107 1923

been assessed against the said real estate sought to be redeemed, and upon which the taxes are sought to be paid, the same as if said property had been separately assessed. Any personal property tax which is a lien upon said real estate shall be likewise computed and apportioned on the same percentage basis as the tax assessed against the real estate is apportioned."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 49.

An Act to Amend Section 860 of the Revised Codes of Montana, 1921, Relating to Refunding Fare to Students.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 860 of the Revised Codes of Montana relating to refunding fares to students be and the same is hereby amended to read as follows:

Refund of fare to students.

"Section 860. Refunding Fare to Students. The State Board of Education, subject to such rules and regulations as said board may hereafter adopt thereon, is authorized to provide for the refund of the amount of necessary fare, less Ten ($10) Dollars, paid by any student in regular attendance at any of the institutions of the University of Montana for travelling once each year from his place of residence in the State of Montana by the most direct route of travel to the said institution and return."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 1st., 1923.

HeinOnline -- 1923 108 1923

CHAPTER 50.

An Act to Amend Section 11528 of the Revised Codes of Montana of 1921, Relating to Gates and Fences and Prescribing Punishment for Violation of the Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 11528 of the Revised Codes of Montana of 1921, be, and the same is hereby amended to read as follows:

"Section 11528. Every person who wilfully leaves open a gate, when found closed, leading in or out of any inclosed premises, whether inclosed by a lawful fence or not, is punishable by a fine of not less than Ten ($10.00) Dollars, nor more than Two Hundred Fifty ($250.00) Dollars, or by imprisonment in the County Jail not more than three (3) months or by both such fine and imprisonment." This Act shall not apply to cities and towns. Penalty.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 51.

An Act to Amend Chapter 202 of the Revised Codes of Montana of 1921 by Adding Thereto One New Section to be Known as Section 2623 (a), Forbidding the Sale of Milk to Which has Been Added Any Fat or Oil Other Than Milk Fat.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Chapter 202 of the Revised Codes of 1921, be and the same is hereby amended by the addition of one new Section to be known as Section 2623 (a) to read as follows:

"Section 2623 (a). It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, skim milk, butter milk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them Sale of milk containing fat or oil.

HeinOnline -- 1923 109 1923

to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. Nothing in this Section shall be construed to prohibit the shipment into this state from a foreign state and the first sale thereof in this state in the original package intact and unbroken, of any of the products or articles, the manufacture, sale or exchange of which or possession of which, with intent to sell or exchange is prohibited hereby."

Section 2. That all Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. That this Act shall be in full force and effect upon its passage and approval.

Approved March 1, 1923.

CHAPTER 52.

An Act to Amend Section 12280 of the Revised Codes of Montana of 1921, Relating to the Arrest or Taking Into Custody of Juvenile Delinquents, and the Proceedings to Be Had Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 12280 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

Procedure with juvenile delinquents.

"Section 12280. When any child under eighteen years of age is taken into custody, or arrested under the provisions of this chapter, such child shall be taken directly before the District Court, or, if the District Court is not then in session in said county, it may be taken before a Justice of the Peace or Police Magistrate, who shall at once notify the Chief Probation Officer of the county, who shall make investigation of such case as in other cases where complaint has been made or petition duly filed and after investigation, as herein provided, by the said Chief Probation Officer, then the Justice of the Peace or Police Magistrate shall act as a committing and examining magistrate only, and it shall be his duty to proceed with the hearing thereof, after granting to the child, or such person as may be representing it, reasonable opportunity to obtain counsel, if counsel be desired by the accused child, and as soon as the said accused child can procure its witnesses. Provided, that nothing herein

Hearing.

HeinOnline -- 1923 110 1923

shall be construed as prohibiting the officer arresting or taking into custody such child from detaining such child in the county or city jail, in a cell or room especially prepared for that purpose, and separate from any other prisoners detained in such jail, except that male and female children shall not be detained in the same cell or room, until such child can be taken before the Court or Magistrate as herein provided. In case the examining Magistrate hold the child for trial in the District Court, it shall be the duty of the Magistrate to transfer the case to said District Court and the Probation Officer having the child in charge shall take the child before the said District Court, and the said District Court shall proceed to hear and dispose of the case in the same manner as if said child had been brought before such Court upon petition originally filed as hereinbefore provided; or, when necessary, when the delinquency charged would otherwise constitute a felony, may direct such child to be kept in proper custody until investigation, and an information may be filed as in other cases of felony or misdemeanor under the laws of the state; provided, that nothing herein shall be construed to confer jurisdiction upon any Justice of the Peace or Police Court to try any case against any child under eighteen years of age. In any case the Court shall require notice to be given and investigation to be made as in other cases under this act, and may adjourn the hearing from time to time for that purpose."

Detention quarters.

Transfer of case to dist. court.

Jurisdiction justice of the peace.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 53.

An Act Giving to the Judges of the District Courts of the State of Montana Jurisdiction to Sign Judgments, Decrees, Orders to Show Cause and all Ex-parte Orders, in Chambers Anywhere within the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The jurisdiction of the judges of the district courts of the State of Montana, in rendering and signing judgments and making findings and rendering decrees, making orders to show cause and all ex-parte orders, in

Jurisdiction of district judges.

HeinOnline -- 1923 111 1923

chambers, shall be co-extensive with the boundaries of the State of Montana, as to all matters presented to or heard by them, and of which they have jurisdiction, and such judgments, findings, decrees and orders, when so rendered, made or signed, shall have the same force and effect as to matters under their jurisdiction as if done in open court, in the county in which the action, proceeding or matter is pending or was heard.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 54.

An Act Relating to Irrigation Districts, Enacting a New Section to be Designated as Section 7189A of the Revised Codes of Montana of 1921, Giving to the Court Continuing Jurisdiction Over Proceedings for Establishment of Districts, for the Inclusion or Exclusion of Lands Therein or the Change of the Boundaries Thereof With Powers to Make Proper Corrections and Amendments of Matters Included in Any Order Made in Any Such Proceeding, Including Description of Lands and Providing the Procedure for the Exercise of Such Powers: Also Enacting Another New Section to be Designated as Section 7231A of the Revised Codes of Montana of 1921, Providing a Limitation Against Actions or Proceedings Allocating Orders or Decrees Purporting to Establish Districts or Correcting or Amending Any Such Order or Decree, Validating Districts Heretofore Established or Attempted to be Established by Order of Court and the Acts and Proceedings of Such Districts or Their Commissioners Leading up to the Authorization, Issuance or Sale, or Proposed Issuance or Sale, of Bonds, as Well as Such Bonds: Also Amending Sections 7190, 7191 and 7192 of the Revised Codes of Montana of 1921, Relating to the Determination of Acreages in Irrigation Districts, and Regulating the Procedure Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That a new section to be designated as Section 7189A of the Revised Codes of Montana of 1921 be and is hereby enacted and added to the said Codes, and to read as follows:

HeinOnline -- 1923 112 1923

"7189A. PROCEEDINGS TO CORRECT ORDERS AND DECREES. The District Court shall retain jurisdiction of any petition presented to establish an irrigation district or to enlarge and increase its boundaries, or to exclude land therefrom, for the purpose of correcting any omissions, defects or errors in the proceedings of said court, and shall have power to correct, and if necessary to amend the order of the District Court establishing the district or any order extending the boundaries thereof, or any order excluding lands therefrom, including the description of lands included or intended to be included in the district, or excluded therefrom or intended to be excluded, the boundaries of the divisions into which it is divided, and any other matter which shall be before the Court on the application to create the district, or to enlarge or extend its boundaries, or to exclude lands therefrom, and shall have and is hereby granted power and authority on application of the Board of Commissioners of the district, to correct and amend the terms of any order or judgment of said Court so that the same shall conform to the provisions of the statute under the authority of which such order was made. The Board of Commissioners of any district may adopt a resolution directing its president and secretary to prepare, execute and file with the Clerk of the District Court a petition which shall set forth the following matters:

Jurisdiction of district court for correcting omissions, etc., in proceedings.

Commissioners may file petition with clerk of district court.

(1) The name of the district and a reference to the order in which the defect, error or omission, errors in description of lands included or excluded, or departure from the statute occurred;

Contents of.

(2) A statement of the defects, errors, omissions, irregularities, errors in description of lands included or excluded, or variances from the statutory requirements;

(3) A prayer for an order correcting said defects, errors, omissions or irregularities.

If the error, defect, omission, irregularity or variance is in the description of any land or lands embraced in the district, the petition shall set forth the correct description of said lands, the names of the holders of title, or evidence of title thereto, ascertained in the manner provided in Section 7166 of this Code; and if any holder is a non-resident of the county or counties in which the district lies, the postoffice address of such non-resident owner, if known. Upon the filing of said petition, the Court shall direct notice of the hearing thereof to be given in such manner as shall be deemed necessary to

Notice of hearing.

HeinOnline -- 1923 113 1923

Order correcting defects.

protect the rights and interests of the parties, and after a hearing of any parties intervening, shall enter an order correcting the said defects, errors, omissions, or irregularities; provided, however, that if the defects, errors, omissions or irregularities are in the description of the lands embraced in the district, the District Court or judge shall direct the Clerk of said Court to publish, at least once a week for two successive calendar weeks, in some newspaper published in said county where said petition is filed, a copy of said petition, together with a notice stating the time and place by said District Court fixed, when and where a hearing on said petition will be had, and, if any portion of the lands within said district lies within any other county or counties said petition and notice shall be published as above provided in a newspaper published in each such other county. If there be no newspaper published in such county, such petition and notice may be published in an adjoining county. The first publication of said petition and notice shall be not less than thirty days prior to the time mentioned in said notice for said hearing. If any holder of title or evidence of title to lands within the district is a non-resident of the county or counties in which the district lies, the Clerk of said Court shall, within three days after the first publication aforesaid, mail a copy of said petition and notice to each such non-resident, whose post-office address is stated in said petition. The certificate of the Clerk of the District Court, under the seal of the Court, as to the facts of the publishing and mailing of said petition and notice, affixed to a copy of said notice, shall be sufficient evidence of such facts.

Publication required of petition when.

First publication.

Clerk of court to mail copy of petition when.

Evidence of publication.

Hearing.

At the time specified in the notice the District Court, in which the petition aforesaid is filed, shall hear the petition but may adjourn such hearing from time to time, and may continue the hearing for want of sufficient notice or other good cause. The Court, upon application of the petitioners or any person or persons interested, shall permit the petition to be amended and may order further or additional notice to be given. Upon such hearing, all persons interested may appear and contest the application for the order prayed for in the petition, and the contestants and petitioners may offer any competent evidence pertinent to the prayer of the petition.

Amended petition.

Contest of application.

Court may make corrections.

The Court may make such changes in the description of the lands embraced within the limits of the district, as may be deemed advisable, or as fact, right and justice may require, but shall not exclude from the district any lands

HeinOnline -- 1923 114 1923

described as a part of said district in the order creating it, after the district has issued bonds or entered into a contract with the United States under Section 7174 of this Code.

Dismissal of petition.

If, on final hearing, it is found by the Court that the petition does not substantially comply with the foregoing requirements of this section, or that the facts therein stated are not sustained by the evidence, then the Court shall dismiss the petition at the cost of the petitioners, and shall make and enter an order to that effect, but if it is found that said petition substantially complies with said requirements, and that the facts therein stated are sustained by the evidence, the Court shall make and enter an order in accordance with the prayer of the petition.

Petition approved.

Findings of court are conclusive.

All orders and findings of the District Court, made under the provisions of this section, shall be conclusive upon all owners of lands within the district, and shall be final unless appealed from to the Supreme Court within sixty days from the day of entry of such order. A copy of such order, duly certified to by the Clerk of said Court, shall be filed for record within thirty days after such order is made and entered with the County Clerk and Recorder of the county wherein the lands included within such district are situated; provided, however, that there shall be omitted from such copy lands not situated in the county in which such copy is filed."

Filing of order.

Section 2. That a new section to be designated as Section 7231A of the Revised Codes of Montana of 1921 be and is hereby enacted and added to the said Codes, and to read as follows:

Suit prohibited after six months.

"7231A. No suit, action or proceeding shall be brought in any court in this state attacking the validity or regularity of any order or decree of the court purporting to establish a district hereunder or correcting or amending any order or decree creating a district after the expiration of six months from the date of the recording of the order establishing the district or the order correcting or amending the same. All districts heretofore established by order of the court and having a **de facto** existence of at least one year, are hereby declared to be valid and legally created subdivisions of the state, and the regularity and validity of the creation of such districts or of the proceedings had for the extension of the boundaries thereof shall not be open to question in any court in this state, and all acts and proceedings of any such district and of its board of commissioners leading up to the authori-

Legal existence of district begins when

HeinOnline -- 1923 115 1923

zation, issuance or sale of bonds or the proposed issuance or sale of bonds, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and all such bonds whether sold heretofore or hereafter are hereby legalized and declared to be valid and legal obligations of and against the irrigation district so issuing and selling the same, provided, that nothing in this section contained shall be deemed or construed to confirm, approve or validate any warrant issued, or disbursement made, or any contract entered into for the expenditure of money, by the board of commissioners on behalf of any district."

Acts of district legalized.

Section 3. That Sections 7190, 7191, and 7192 of the Revised Codes of Montana of 1921 (being Section 3 of Chapter 145 of the Laws of 1915) relating to the determination of acreages in irrigation districts and regulating the procedure therefor, be amended and re-enacted so as to read as follows:

Owner may have taxable acreage fixed, when.

"7190: Whenever any lot, tract, or parcel of land has been heretofore, or may hereafter be, included within the boundaries of any public irrigation district formed under the laws of this state, and the acreage thereof fixed and stated in the decree for the creation of said district, or in any other proceeding relating thereto, is fixed at a greater number of acres than actually exist within such lot, tract, or parcel of land, or at a greater number of acres than can be irrigated from the reclamation system of said district; or whenever, from any action or proceeding by or on behalf of said district or its commissioners, any such lot, tract, or parcel of land included therein has been or is about to be assessed from a greater acreage than exists therein, or can be irrigated from the reclamation system of said district, the owner or holder of title or evidence of title to said lands, as defined by the irrigation district Acts, may have the taxable acreage contained therein fixed and adjudicated as provided for by this Act; provided, however, that if any bonds have been issued with the approval, and pursuant to confirmation by the court, then no proceeding for the determination of the acreage shall be allowed to alter or reduce in any manner the acreage subject to the lien of such bonds, in principal or interest, or of the taxes or assessments to meet the interest or principal thereof, while such bonds or the interest thereon are unpaid in whole or in part; but such proceeding may still be allowed to correct or determine acreage subject to taxes or assessments for maintenance and current expenses, and in so far as the latter only are to be affected."

Procedure when bonds issued with approval of district court.

HeinOnline -- 1923 116 1923

"7191. The owner or holder of title or evidence of title, as defined by the irrigation district Acts, may file in the District Court of the county wherein said lands are situated a petition praying that the acreage of the lands set forth and described in such petition may be permanently fixed and adjudicated, which petition shall set forth:

Owner may petition for permanent adjudication of acreage.

1. The name or names of the owner or owners, holder or title or evidence of title thereto, who shall be the party or parties plaintiff therein;

Contents of petition.

2. The names and kind and character of interest of every person owning, holding, or claiming any right, title, or interest in or to the lands described in said petition, who shall, where they do not appear as parties plaintiff under subdivision 1 hereof, sit as parties defendant;

3. The name of the district in which said lands are included, together with the name of the board of commissioners thereof, and the secretary thereof, and said district, its commissioners and secretary, shall be made parties defendant therein;

4. A statement of the substance of all proceedings, orders, and decrees creating said districts and fixing the acreage of the lands therein described, together with any proceedings of the board of commissioners of said district or its officers relating to the acreage thereof, to such extent as to fully inform the court of the manner and extent to which said lands have been included and taxed or assessed in said district;

5. The actual acreage of the lands described as irrigable from the reclamation system of said district;

6. The excess of acreage complained of;

7. The amount of taxes previously paid on such excess acreage;

8. A general statement of the exact nature of the relief sought, and the grounds therefor."

"7192. Upon the filing of such petition, summons shall be issued thereon and served upon all parties defendant thereto, with a copy of the petition attached thereto, in the same manner and in the same form as issued in civil actions.

Summons to defendants.

Whenever any necessary party thereto cannot, after due diligence, be found within the State of Montana, service upon such party or parties may be had by publication of a summons, which shall be obtained, issued and published in the same manner as a published summons in a civil action.

Publication of summons when.

HeinOnline -- 1923 117 1923

Code of civil procedure applies.

The provisions of the Code of Civil Procedure of the State of Montana, and the rules of pleading and practice applicable to civil action generally, shall apply, so far as applicable, to this proceeding.

If the allegations to such petition be denied, the District Court shall, when the time for appearance of the parties defendant thereto has expired, and said parties have appeared by answer or made default, proceed to hear and determine the issues in said proceedings as joined."

Hearing.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 55.

An Act Amending Sections 9485 and 9487 of the Revised Codes of the State of Montana of 1921 Relating to Quieting Title to Real Estate.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 9485 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Form of summons.

"Section 9485. Form of Summons—Publication—When Service deemed Complete. The summons to be published under the preceding sections shall be in substantially the following form:

(Title of court and cause.)

"The state of Montana to (naming known defendants upon whom service by publication is sought), and to all other persons, unknown, claiming, or who might claim, any right, title, estate, or interest in, or lien or incumbrance upon, the real property described in the complaint, or any thereof, adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto, whether such claim or possible claim be present or contingent, including any claim or possible claim of dower, inchoate or accured, Greeting;

"You are hereby summoned to answer the complaint in this action which is filed in the office of the clerk of this court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service; and in

HeinOnline -- 1923 118 1923

case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

"This action involves the title to the following described lands, to-wit: (here insert description of land.)

"The nature of the relief sought by the plaintiff is as follows: (here set forth in concise form the character of relief sought.)

"Witness my hand and the seal of said court this..... day of .....

.....

"Clerk of the above entitled court."

Publication of summons.

Such summons shall be published at least once in each week for a period of four weeks, in some newspaper of general circulation, printed and regularly published at least once a week in the county in which the action is brought, or, if there is no such newspaper printed in such county, then such summons shall be published in like period, in the nearest county in which such a newspaper is printed, preference to be given, first, to an adjoining county in which any portion of the property is situated, if situated in more than one county; and, second to any adjoining county. Service shall be deemed complete on the day of the fourth publication."

Section 2. That Section 9487 of the Revised Codes of the State of Montana of 1921 be and the same is hereby amended to read as follows:

"Section 9487. Jurisdiction acquired by Service—Effect of decree—Evidence to support—Reduction of testimony to writing. Upon the service of summons on all defendants, known and unknown, in the manner provided in the preceding sections, the court in which such action is tried shall have jurisdiction to make a complete adjudication of the title to the lands named in the complaint, and the title to which is sought to be quieted, including jurisdiction to direct the cancellation of instruments constituting clouds upon such title, the execution of conveyances, where it appears that any party to such action should execute such conveyance or conveyances, the execution of satisfactions of mortgages and other apparent liens upon such land, or any part thereof, or the doing of any other act of a personal nature necessary to give effect to the rights of the respective parties to such action, as the same may be adjudicated by the court. When any judgment or decree shall be rendered in such action, for a conveyance, release, or acquittance, as above mentioned,

Jurisdiction of court to make adjudication of title.

Effect of judgment.

HeinOnline -- 1923 119 1923

and the party or parties against whom the judgment or decree shall be rendered do not comply therewith, within the time specified in said judgment or decree for such compliance, such judgment or decree shall have the same operation and effect, and be as available, as if the conveyance, release, or acquittance had been executed conformably to such judgment or decree. Before plaintiff shall be entitled to a decree in such action against any defendant who shall not appear therein, he must produce evidence sufficient to prima facie entitle him to relief, and relief shall be granted only to the extent to which such evidence shall prima facie prove him to be entitled to the same; but this provision shall not affect the procedure in or manner of trial of such actions as between the plaintiff and any defendant who shall appear in such action.

Evidence to support.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 56.

An Act to Amend Section 4565 of the Revised Codes of Montana of 1921 with Reference to the Creation and Establishing of County Free Libraries and Providing for the Management and Control Thereof and for the Appointment of a Librarian and Salary Pertaining Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4565 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

County librarian appointment and compensation.

"Section 4565. Upon the establishment of a county free library, the board of county commissioners may appoint a county librarian who shall receive not less than One Hundred Dollars per month and who may be removed for cause, after the hearing, by said board. Any person who is a graduate of a library school, or has had two years' practical experience in a library of not less than three thousand volumes, shall be eligible to the office of county librarian; provided, that, from and after the creation and organization of a state board of library ex-

HeinOnline -- 1923 120 1923

aminers no person shall be eligible to the office of county librarian, unless, prior to his appointment, he has received from said board of library examiners a certificate of qualification for the office."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 57.

An Act Creating the Montana Pioneer Historical Fund, The Pioneer Historical Society Commission and Defining and Describing its Powers and Duties.

Be it enacted by the Legislative Assembly of the State of Montana:

Historical society of Montana.

Section 1. The Historical and Miscellaneous Library shall hereafter be known as and called the Historical Society of Montana.

Historical fund.

Section 2. The Montana Pioneer Historical Fund is hereby created for the reception and custody of contributions, legacies, gifts, bequests or devises, for the special purpose of the construction of a Pioneer Historical Society Building on the State Capitol grounds at Helena, Montana.

Treasurer is custodian of fund.

Section 3. The Treasurer of the State of Montana is the custodian of such funds as shall be contributed thereto (by any person) and such funds shall be held inviolate for the purpose named and shall never revert to the general or any other fund but shall be used for the special purpose herein specified. When the said funds in cash shall amount to the sum of Two Hundred and Fifty Thousand Dollars ($250,000.00) the State Treasurer shall so report to the Governor of the State of Montana and it shall be the duty of the Governor to appoint a Pioneer Historical Society Commission, of which commission the Lieutenant Governor of the State of Montana for the time being shall be one, the Treasurer of the State of Montana for the time being shall be one, the President of the Historical Society for the time being shall be one, and the President of the Society of Montana Pioneers for the time being shall be one. The said commission shall consist of seven members, three of whom shall be ap-

Report to governor of total fund.

Appointment of pioneer historical society com'n.

Members of the com'n.

HeinOnline -- 1923 121 1923

pointed by the Governor for the term of four years or until their successors are appointed and qualified or until the duties of said commission as provided herein have been performed. Said Commission shall serve without pay.

Design for permanent building.

Section 4. The said Commission is specially charged with the duty of securing a satisfactory design for the permanent home of the Historical Society of Montana and of the Society of Montana Pioneers and to let the contract for the construction of the same and to supervise such construction and furnishing under proper regulations.

Building for exclusive use of pioneer society.

Section 5. On the completion and acceptance of said building and the payment of the cost thereof out of the said Pioneer Historical Fund, the same shall be occupied by the Historical Society of Montana and the Society of Montana Pioneers and such societies only.

Furnishing cost.

Section 6. Out of the said fund shall be retained from the moneys devoted to the construction of said building ten per cent (10%) thereof for the proper furnishing of the said building under the supervision of the said commission aside from the furniture now belonging to the Historical Society of the State.

Submission of claims.

Section 7. All claims against the said fund shall be sworn to and filed with the Secretary of said Commission and shall be examined at a regular meeting of the Board, and if allowed by the said Commission said claims shall be presented to the State Board of Examiners for approval and payment out of the moneys contained in the said Pioneer Historical Fund.

Full report on completion of work.

Section 8. On the completion of the duties devolved herein on the said Pioneer Historical Society Commission the said Commission shall make a full report of its work and the same shall be dissolved and cease.

Designation of building lot.

Section 9. When the said Commission is appointed the Governor of the State or body or commission having charge and control of the State Capitol Grounds shall designate one full block adjacent to the said Capitol and bounded on all sides by a street for such building which shall be satisfactory to said commission and accepted by them before proceeding with the construction of the said building.

Quorum.

Expenses allowed.

Section 10. A majority of said commission shall constitute a quorum at any meeting and the members thereof may be allowed their necessary traveling expenses for

HeinOnline -- 1923 122 1923

attending such meetings at Helena out of the said Pioneer Historical Fund. The office of said Commission is hereby designated to be located at the Rooms of the Historical Society of Montana in the Capitol Building at Helena. The officers of said Commission shall consist of a Chairman, a Vice Chairman, a Secretary to be elected by the members thereof and the Treasurer of the State of Montana for the time being shall be the Treasurer thereof.

Office of commission.

Officers of commission.

Section 11. On the completion of the said building and its occupancy as above provided the State of Montana does hereby agree and undertake to perpetually maintain, repair, heat, renew furniture, etc., as required, the same.

State assumes maintenance when.

Section 12. Provision in the design of said building shall be made for an Art Gallery specially arranged for the fine collection of oil and other portraits and landscapes belonging to the said Historical Society.

Art gallery.

Section 13. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 14. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 1, 1923.

CHAPTER 58.

An Act Relating to the Rights and Disabilities of Aliens With Respect to Lands, Providing for Forfeitures in Certain Cases, Prescribing Penalties, and Repealing All Laws in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. DEFINITIONS. For the purposes of this Act, unless the context otherwise requires.

(a) "Alien" does not include a person eligible to citizenship, or one who has in good faith declared his intention to become a citizen of the United States, but does include other aliens or corporations or other organized groups of persons a majority of whom or whose capital stock is owned or controlled by aliens not eligible for citizenship or a majority of whose members are aliens:

"Alien" defined.

(b) "Land" does not include lands containing valuable deposits of minerals, metals, iron, coal or fire clay or the necessary land for mills and machinery to be used in the development thereof and the manufacture of the

"Land" defined.

HeinOnline -- 1923 123 1923

products therefrom but does include every other kind of land and every interest therein and right to the control, possession, use, enjoyment, rents, issues or profits thereof except a mortgage and except a right to the possession, use or enjoyment of land for a period of not more than ten years for a purpose for which an alien is accorded the use of land by a treaty between the United States and the country whereof he is a citizen.

(c) "Land" also includes any share or interest in a corporation or other organized group of persons deemed an alien in this Act which has title to land either heretofore or hereafter acquired;

"Own" defined. (d) To "own" means to have the legal or equitable title to or the right to any benefit of;

"Title" defined. (e) "Title" includes every kind of legal or equitable title;

(f) Ownership of or title to land acquired by inheritance or in good faith either under mortgage or in the ordinary course of justice in the collection of debts, or acquired by a female citizen afterwards expatriated by marriage to an alien, is excluded;

"Inheritance" (g) "Inheritance" includes devise;

"Mortgage." (h) "Mortgage" includes every kind of lien upon lands;

(i) A mortgage of land under which an alien is entitled before default to any control, possession, use or enjoyment of the land, is an absolute conveyance;

"Person." (j) "Person" includes an individual, partnership, corporation or any other organized group of persons; and

"Own." (k) To "own" also means to have or hold any contract or agreement with the owner or possessor of land whereby the holder of such contract or agreement is required or permitted to possess, use or occupy such land.

Alien cannot hold land or title to. Section 2. An alien shall not own land or take or hold title thereto. No person shall take or hold land or title to land for an alien. Land now held by or for aliens in violation of the constitution of the state is forfeited to and declared to be the property of the state. Land hereafter conveyed to or for the use of aliens in violation of the constitution or of this Act shall thereby be forfeited to and become the property of the state. Nothing herein contained shall be con-

Forfeiture.

HeinOnline -- 1923 124 1923

strued to destroy or limit existing or vested rights of any person at the time of the passage of this Act.

Alien may not be trustee.

Section 3. An alien is not qualified to be trustee under a will, executor, administrator or guardian, if any part of the estate is land; PROVIDED, an alien now lawfully acting in such capacity may continue for not more than two years.

Forfeiture of land when.

Section 4. If hereafter an alien acquires land by inheritance or in good faith either under mortgage or in the ordinary course of justice in the collection of debts and, remaining an alien, hold the same for more than twelve years from the date title was so acquired or control or possession taken, the land shall be forfeited to the state.

Mortgage foreclosure.

Section 5. If an alien, claiming or holding under a mortgage, has control, possession, use or enjoyment of the mortgaged land, the obligations secured by the mortgage shall be deemed matured and the mortgage shall be foreclosed; and if the land be not sold under foreclosure within three years after the alien has obtained control, possession, use or enjoyment, the mortgage and the obligation thereby secured shall be forfeited to the state and shall be foreclosed for the use of the state.

Penalty for certain acts.

Section 6. Whoever

(a) Knowingly transfers or conveys land or title to land to an alien; or

(b) Knowingly takes land or title to land in trust for an alien, or

(c) Holding in trust for an alien land or title to land, either heretofore or hereafter acquired, fails for thirty days after acquiring knowledge or notice that he holds in trust for an alien to disclose the fact to the attorney general or the prosecuting attorney of the county where the land is situated; or

(d) Being an alien and having a title to land or control, possession, use or enjoyment of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of his interest in and title to the land; or

(e) Being an officer or agent of a corporation or other organized group of persons which has title to land or control, possession, use or enjoyment of land,

HeinOnline -- 1923 125 1923

whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of his interest in and title to the land; or

(f) Being an officer or agent of a corporation or other organized group of persons which has title to land or control, possession, use or enjoyment of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of the interest of persons not citizens of the United States in the corporation or other organized group of persons; or

(g) Being an officer or agent of a corporation or other organized group of persons which holds in trust for an alien title to land or control or possession of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of the alien's interest in and title to the land; or

(h) Wilfully counsels, aids or abets another in violating or evading this act,

Is guilty of a misdemeanor and punishable by a fine of not less them One Hundred Dollars ($100.00) or more than One Thousand Dollars ($1,000.00) or six months in jail or both such fine and imprisonment.

Common school fund.

Section 7. Property forfeited to the state by this Act shall inure to the permanent common school fund and be managed and disposed of accordingly.

Exception.

Section 8. This Act shall not impair any title or right heretofore or hereafter acquired from or derived through an alien in good faith and for value by a person not under an alien's disability.

Section 9. All Acts and parts of Acts which are in conflict herewith are hereby repealed.

Section 10. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

HeinOnline -- 1923 126 1923

CHAPTER 59.

An Act Relating to Farm Storage Warehouses for Grain; Providing for the Storage, Measuring, Inspection, Grading and Insurance of Grain in Licensed Warehouses on the Farm; Providing for Farm Warehouse Inspectors; Providing for the Issuance of Negotiable Warehouse Certificates Secured by Grain Held in Licensed Farm Warehouses, and Defining the Duties of the County Clerk and of the Commissioner of Agriculture Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Farm warehouses.

Section 1. Farm Warehouses, Storage: That any land owner, tenant or manager of any lands in this state desiring to make a loan on wheat or any other grain, may store the same upon said land in a farm warehouse built and situated thereon and receive a warehouse certificate for same by complying with the provisions of this act.

Storage.

Application.

Section 2. License, Application. Any person coming within the requirements of this act, and desiring to avail himself of the provisions thereof shall file with the County Clerk of the County wherein said warehouse or warehouses are located, an application for a license to store grain, and a request that inspection be made of the warehouse or warehouses and their contents as hereinafter provided. Such application shall be made under oath by the party or the agent of the party to whom the license is to be issued and shall be made upon an application form which shall be furnished the County Clerk by the Commissioner of Agriculture, setting forth such information as may be required for the proper enforcement of this act. Such application shall be accompanied by a license fee of fifty cents which shall be paid to the county clerk, and the license, when issued, shall be good for a period of one year thereafter, unless it shall be canceled by the County Clerk on the recommendation of a regularly appointed warehouse inspector after personal examination of the warehouse or warehouses as provided hereinafter.

Form of.

Fee.

License

Holder of license, authority.

Section 3. The Holder. The Holder of a license as herein provided, whenever such warehouse or warehouses shall have been approved as safe storage houses for grain by the farm warehouse inspector, shall be entitled to have issued on grain stored in the farm ware-

HeinOnline -- 1923 127 1923

house or warehouses a warehouse certificate or certificates to be issued by the county warehouse inspector; said certificate shall be made upon a form prescribed and approved by the Commissioner of Agriculture, the Attorney General and the Bank Examiner of the State of Montana.

Warehouse certificates negotiable.

Section 4. Warehouse Certificates Negotiable: All warehouse certificates issued as herein provided for are and the same hereby are made negotiable, transferable and assignable. Provided, when said warehouse certificate is issued to a tenant it shall be issued only for length of time of land lease, unless consent of landlord be given for extension of time. Such warehouse certificate forms shall be provided with spaces upon which shall be entered the name of the purchaser, assignee, or the person or firm making advances upon such grain, together with the amount of such advances, but when such warehouse certificates are negotiated or used as collateral for advances, the right or title of the holder to the grain described in the certificate shall not be greater than the amount of the advance together with accrued interest, and necessary costs of collection. Such certificate when recorded in the office of the county clerk of the county where such grain is stored, shall have the force and effect of a chattel mortgage.

Form of certificate.

Right or title of holder.

Recorded certificate.

Appointment of warehouse inspectors.

Section 5. Inspector, Appointment, Compensation, Bond. The Board of Commissioners of each county is hereby authorized, and upon petition of twenty farmers resident within the county, is directed, to appoint one or more men as may be needed, who shall be competent to serve as warehouse inspectors who shall be residents of the county, and one of whom may be the county agricultural agent of such county. Each warehouse inspector shall collect from each applicant for the warehouse certificate or certificates the sum of $5.00, which shall be retained by such inspector as compensation for his services, and shall be collected before the delivery to the applicant, of the warehouse certificate provided for herein. In addition the owner of the grain shall pay to the inspector the regular mileage allowed to the sheriff of his county for the number of miles necessarily traveled to make such inspection in all cases where said inspector provided his own conveyance and travels at his own expense; in such cases the inspector shall retain said fees as reinbursement for his expense. Before entering upon the discharge of his duties each inspector

Fees as compensation.

Mileage fee.

HeinOnline -- 1923 128 1923

shall take an oath for the faithful and impartial discharge of his duties, and shall give bond to the county for the faithful discharge of his duties in a sum to be fixed by the county board, not less than $5,000.00; said bond to be approved by the county board. Oath of office and bond.

Section 6. Duties of Warehouse Inspector. The duties of the farm warehouse inspector are defined as follows: Duties of inspector.

(a) Upon application as provided herein, the inspector shall proceed to make said inspection as provided herein within a reasonable time. He shall carefully examine all such warehouses as to roofs, windows, doors and other openings, foundation and construction and after such examination, shall either approve or reject such structure as a farm storage warehouse, and shall make a written report in triplicate describing the same, the original to be filed with the county clerk, the duplicate to be left with the license holder and the triplicate for the files of the inspector. Said report shall bear the signature of the license holder as well as that of the inspector. Inspection. Report.

(b) If such warehouse is approved the inspector shall then proceed to take a probe test of the bin in which grain upon which inspection is desired is located; said probe tests to be not more than three feet apart and must go to the bottom of the bin tested, provided, however, that if it be impractical to get a probe test that will go to the bottom of the bin or bins, he shall write upon the report above required, the notation "No Bottom." He will then determine the quantity of grain so inspected by measurement or weight. Probe. Tests.

(c) He shall make up a sample as required by law covering the inspection of grain, and shall forward same in a suitable container, together with his report on condition thereof, to the State Inspector of Grain, or to the place where nearest Deputy State Inspector is located, for grading. It shall then be the duty of the State Inspector, or his deputy to issue a certificate of grade, showing the kind of grain, grade, dockage and moisture content, together with the percentage of each kind of grain contained in the sample, provided it should grade Mixed Grain. As soon as the Inspector has received the State Inspector's Grade, it shall then be his duty to issue to the license holder the warehouse certificate on the form as provided in this act, showing the amount, kind, grade, moisture content, percentage of mixture, etc., of the grain in question. Samples. Certificate of grade. Warehouse certificate.

HeinOnline -- 1923 129 1923

Sealing warehouse.

(d) When such examination and inspection has been completed by the inspector, he shall carefully seal all openings with a seal furnished by the State of Montana and said seal shall remain upon said warehouse until the owner shall have complied with the provisions of this act, and regulations issued under the authority thereof, providing for the removal of the grain stored in such warehouse. He shall then post on the door of said warehouse, a notice to the effect that this is a farm warehouse and warning all persons under penalties of this act from in any manner tampering with the seals or in any other manner entering upon said premises without the consent of the inspector or his duly authorized agents. Any violation of this paragraph be and is hereby defined as Grand Larceny and subject to all the penalties attaching to the crime of Grand Larceny in this State.

Poster on doors.

Violation.

Weekly reports of inspector.

(e) The inspector shall make weekly reports to the County Clerk of the County in which he lives of all inspections made during that week a copy of which must also be mailed to the Commissioner of Agriculture of the State of Montana, showing the names of the parties inspected, the locations of warehouse or warehouses, the kind and amount of grain so inspected, also the amount of fees and mileage collected.

Redemption of negotiable certificate.

Section 7. Certificate, Redemption. In case the owner of such warehouse certificate issued under the provisions of this act shall negotiate said certificate as collateral to loans or advances, the value of which is fixed by a note attached to this certificate and shall fail to pay said amount when due then and in that case the holder of his certificate shall be entitled to recover under the chattel mortgage law of this state and shall be entitled to all protection in matters of this kind, the same as though the obligation were a bona fide chattel mortgage. It shall be the duty of the Commissioner of Agriculture to prescribe regulations governing the manner of delivery of such stored grain, and the settlement of advances and other charges against it, to the end that the interest of all parties shall be fully protected, but this shall not be construed as giving the Commissioner of Agriculture the power to make rules and regulations which would in any manner endanger the rights of those making loans and advances on warehouse certificates in accordance with this act.

Regulations by com's of agriculture.

HeinOnline -- 1923 130 1923

Section 8. Insurance at Full Value. Any person to whom warehouse certificates are issued shall keep the grain in such warehouse or warehouses owned or controlled by him insured against loss by fire, tornado and windstorm in some good and responsible insurance company to the extent of the full insurable value thereof and such insurance shall be written before such certificates are negotiated. Insurance for full value.

Section 9. Nothing in this act shall be construed to prevent farmers in any county or community from forming among themselves local co-operative credit associations whenever such associations are required in order to secure advances upon grain stored in farm warehouses as contemplated in this act and such associations shall be entitled to full protection of this act, the same as any other person, firm, corporation or bank, making loans and advances under this act. Act does not prevent farmers' co-operative credit assns.

Section 10. All acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

This act shall take effect upon its passage and approval.

Approved March 1, 1923.

CHAPTER 60.

An Act to Designate and Provide for the Destruction and Eradication of Canada Thistles and Quack Grass, and the Appointment by County Commissioners and City Councils of a Weed Commissioner, Defining His Duties, Fixing His Compensation and Amending Sections 4508, 4509, 4510, 4511, 4512, of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4508 of the Revised Codes of 1921 be, and the same is hereby amended to read as follows:

The Board of County Commissioners of each county and the City Council of each municipal corporation are hereby authorized and upon presentation to them of a petition signed by fifty (50) freeholders of the county or twenty-five (25) freeholders of the municipal corporation, as the case may be, may employ a suitable and competent person as weed commissioner for the period Weed com'r, employment of.

HeinOnline -- 1923 131 1923

between the 15th day of June and the 1st day of October of each year and to provide for his compensation at not to exceed the sum paid to road supervisors or street commissioners, and it shall be the duty of said weed commissioner when appointed to supervise the destruction of noxious weeds and he is hereby empowered to give notices provided for in this Act, and cause the provisions hereof to be forced.

Compensation.

Duties of com'r.

Section 2. That Section 4509 of the Revised Codes of 1921 be, and the same is hereby amended to read as follows:

Where the weed commissioner has knowledge, or on written complaint made to any such weed commissioner, that noxious weeds described in this Act are growing or standing upon the lands within his jurisdiction, in violation of the law, he shall forthwith inspect the premises and if the complaint be well founded, he shall cause written notice to be served on the person permitting the same, directing him to comply with the provisions of this Act, in respect thereto within four (4) days after such service.

Inspection and notice to owner.

Section 3. That Section 4510 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

All notices herein provided for may be served by any citizen of the county or municipal corporation in which the land is situated; such service shall be upon the occupant, if any there be, otherwise upon the owner or person in charge of the land and shall be by registered letter or person. If there be no person within the county upon whom service can be made, of which the affidavits of the person serving the notice shall be prima facie evidence, the subsequent procedure shall be the same as though service had been had and the notice ignored.

Service of notice.

Section 4. That Section 4511 of the Revised Codes of 1921 be, and the same is hereby amended to read as follows:

If the notice be not obeyed within four (4) days, the weed commissioner of the county or municipal corporation, as the case may be, shall forthwith destroy such weeds and make report thereof to the county clerk or to the city clerk in cities where taxes are collected by the city Treasurer, with a verified, itemized account of his services and expenses in so doing, and a description of the lands involved, and shall include in said account his own wages for the time of his necessary employ-

Failure to observe.

Notice action and report to county clerk.

HeinOnline -- 1923 132 1923

ment as well as for men and teams employed, at a rate paid for farm labor per day for man and team for eight hour day. Such expense shall be paid by the county or municipal corporation out of the General funds and unless the sum be repaid by the owner or occupant before October 15th next ensuing, the county clerk, or the city clerk, as the case may be, shall certify the amount thereof, with the description of the premises to be charged, and shall extend the same to the assessment list of the said county or city as a special tax on said land, but if the land for any reason be exempt from general taxation, the amount of such charge may be recovered of the owner in a civil action with costs.

Expenses paid how.

Repayment by owner.

Extension of claim on assessment list.

Section 5. That Section 4512 of the Revised Codes of 1921 be, and the same is hereby amended to read as follows:

When noxious weeds are so intermixed with a growing crop that the field is a menace to the community, the weed commissioner shall have power to order the destruction of the same or such parts thereof as may be necessary. All officials charged with the enforcement of this Act may go upon the lands infested with noxious weeds, or suspected thereof, for any purpose necessary to such enforcement.

Weeds in crops, procedure.

Section 6. All Acts, and parts of Acts, in conflict herewith are hereby repealed.

Section 7. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1st, 1923.

CHAPTER 61.

An Act to Define the Duties of All Persons, Firms, or Corporations Who Purchase or Receive Hides of Cattle; To Require Written Bills of Sale Therefor From the Vendor, and the Keeping of a Permanent Record; Prescribing the Contents of Bill of Sale; Making Provision for the Inspection of Such Hides, and Bills of Sale; Making a Violation of This Act a Misdemeanor, and Prescribing a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any person, firm or corporation who shall purchase or receive any hides of cattle, shall obtain from the owner thereof, or from his legally authorized agent,

Purchaser to secure bill of sale.

HeinOnline -- 1923 133 1923

Contents of bill.

at the time of purchasing or receiving the same, a bill of sale in writing, which bill of sale shall recite in full the date of receiving the hide or hides, the name of the person, firm or corporation selling such hides, a description of each hide which shall include the marks and brands on each hide, the weight thereof, and whether the same is dry or green, and shall keep a permanent record of all such purchases. Such records and bills of sale shall be exhibited for examination at any time upon demand of any stock inspector or peace officer of this state. All such hides so purchased shall be submitted for examination and inspection at any time within ten days after purchase, at the purchaser's residence or place of business, upon demand of any stock inspector or peace officer of this state. Any person, firm or corporation who shall fail to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as hereinafter provided. It being expressly provided, that purchases of hides may be made in quantities exceeding ten (10) in number, in one purchase, from a seller who is regularly engaged in the slaughter of cattle, at a fixed place of business, who has already complied with the law regulating the slaughter of cattle, without a compliance with the foregoing provision of this section, if the seller shall deliver to the purchaser a copy of the record of the slaughter of the animals from which said hides were taken and none other.

Exhibited for examination.

May demand inspection.

Penalty.

Sale of quantity.

Falsifying bill of sale.

Section 2. Any person, firm or corporation selling or disposing of hides in any manner, or any person, firm or corporation purchasing such hides, who shall wilfully or intentionally falsify the bill of sale covering such hides, shall be deemed guilty of a misdemeanor and shall be punished as hereinafter provided.

Penalty.

Section 3. Any person, firm or corporation who violates any of the provisions of this act, shall upon conviction thereof, be punished by a fine of not less than Twenty Five dollars, nor more than Two Hundred Dollars, or by imprisonment in the county jail, for a period of not less than ten days nor more than sixty days, or by both such fine and imprisonment.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

HeinOnline -- 1923 134 1923

CHAPTER 62.

An Act to Amend Chapter 53 of the Penal Code of the State of Montana of 1921 by Adding to Chapter 53 a New Section to be Known as Section 11515-A; Providing for the Proof Required in Prosecutions for the Killing, Maiming or Poisoning of Live Stock.

Be it enacted by the Legislative Assembly of the State of Montana:

Proof in prosecution.

Section 1. That Chapter 53 of the Penal Code of the State of Montana of 1921 be amended by adding thereto a new section to be known as Section 11515-A to read as follows:

"Section 11515-A. In any prosecution for the violation of the provisions of Section 11515 of the Revised Codes of 1921, prohibiting the malicious killing, maiming or poisoning of live stock, not the property of the defendant it shall not be necessary for the state to allege in the complaint or information or to prove the ownership of the livestock so alleged to have been killed, maimed or poisoned, but it shall be sufficient to allege in the complaint or information that the owner of such live stock is unknown and prove that the live stock killed, poisoned, maimed was not the property of the defendant."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 63.

An Act to Permit Real Property to Be Redeemed From Tax Sale by Paying the Original Tax and Interest Thereon.

Be it enacted by the Legislative Assembly of the State of Montana:

Property when and how redeemed from county.

Section 1. That from and after the passage and approval of this act, any person having an interest in real estate heretofore sold for taxes to any county or which has been struck off to such county when the property was offered for sale, and no assignment of the certificate of such tax sale has been made by the county mak-

HeinOnline -- 1923 135 1923

ing such sale, shall be permitted to redeem the same by paying the original tax plus seven per cent interest from the date of sale.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

CHAPTER 64.

An Act to Provide for a License Tax Upon Sleeping Car Companies and to Repeal Sections 2314 and 2315 of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

"Board" defined.

Section 1. DEFINITIONS. The term "board" when used in this act shall mean the State Board of Equalization.

"Sleeping car company" defined.

Any person, persons, co-partnership, joint stock company, association, or corporation (not being a railroad company or a lessee of a railroad company) wherever organized or incorporated, owning and operating, or operating any cars known as dining, buffet, chair, parlor, palace or sleeping cars, which are used upon railroads within this state, unless the ownership of such cars be identical with that of the lines of railroads on which they are operated, shall be deemed a sleeping car company for the purposes of this Act.

Annual reports.

Section 2. REPORTS. Every sleeping car company shall annually on or before the first day of March and in such forms and covering such period as the State Board of Equalization shall prescribe, make and file with it a statement verified by the oath of the person, agent or officer making the same, setting forth the facts called for. Such report shall contain:

Contents.

(1) The name of the company.

(2) The nature of the company, whether a person, agent, trustee, lessee, receiver, or other person, or a joint stock company, partnership, association, or corporation.

(3) The location of its principal office, and under the laws of what state or country organized, and when.

(4) The name and address of the president, secretary, auditor, treasurer and superintendent or general manager.

HeinOnline -- 1923 136 1923

(5) The name and address of its chief officer or managing agent in Montana.

(6) Its capital stock.

(a) The amount authorized.

(b) The amount issued.

(c) The amount of capital stock invested in its sleeping car business.

(7) The number of shares of stock:

(a) Outstanding.

(b) Not issued.

(c) Treasury; and whether common or preferred.

(8) The amount of the bonds outstanding; when issued; when due, and the rate of interest of each issue.

(9) The par and market value of the stocks and bonds issued and outstanding.

(10) The whole length and the names of railroad lines over which its cars were transported in the State of Montana.

(11) The total car mileage and the car mileage within this state.

(12) The gross and net earnings during the year.

(13) Such other facts and information as such company or the State Board of Equalization may deem material upon the question of the true and full value of said property within this state. Said Board shall furnish forms upon which to make such reports.

Board to furnish forms.

Section 3. ASSESSMENT. The State Board of Equalization shall carefully consider all reports made pursuant to Section 2 and all other facts and evidence collected and available, and shall fix the valuation of the property of sleeping car companies operating in the state for the purpose of levying and collecting license taxes thereon, as hereinafter provided.

Board shall fix valuation of property.

Section 4. METHOD OF DETERMINING VALUATION.

(1) It shall find, ascertain, and determine the actual value in money of the entire amount of capital stock of each such company invested in its sleeping car business, and when the value of the capital stock cannot be reliably ascertained it shall find, ascertain and determine the value of the entire property used in said business. From the amount so obtained, it shall deduct the actual value of its real estate situate without this state not used in said business, and also the actual value of all its personal property, not used in said business. The remainder shall be taken and considered as the actual

Method of ascertaining value.

HeinOnline -- 1923 137 1923

value of the capital stock of such company invested or used in its business.

(2) The Board shall then divide the amount so obtained by the total car mileage on railroads over which the company did business to obtain the value per car mile, and shall then multiply the value per car mile thus obtained by the total number of car miles within this state. The result shall be taken and considered as the actual value of the property of such company subject to the license tax in this state, subject to review as provided in Section 5.

Notice of hearing.

Section 5. The Board shall thereupon give notice to the officer of such company attesting its report of the time and place such company may appear and be heard in respect to such valuation to be made upon its property. After such hearing the said Board may make such changes in its valuation as shall appear just and reasonable.

Tax rate.

Section 6. LICENSE TAX. The Board shall thereupon levy a license tax upon the property of such sleeping car company at the rate of one and one half per cent (1½%) on the valuation thus found by it for the use of the state, and the Board shall certify such assessment and levy to the State Treasurer, who shall thereupon, by registered letter, notify the officer attesting the report of such company, of the amount of the assessment, the rate of levy and the amount of the tax; and such company shall have thirty days after the mailing of such notice within which to pay said tax to the State Treasurer. And such tax when paid shall be turned into the general fund of the State Treasury.

Certification of assessment.

Duty of treasurer.

Payment.

General fund.

Section 7. FAILURE TO REPORT; NONPAYMENT; ACTION FOR COLLECTION.

Failure to make report.

(1) If any sleeping car company shall fail to make the report required of it by this Act, the Board shall proceed upon the best information it may be able to obtain to fix the valuation against such company and shall notify it by letter of the action taken in that behalf. Thereupon the company so notified may appear and be heard as above provided.

Hearing.

Interest on unpaid amounts.

Duty of att'y general.

(2) All taxes remaining unpaid after notice from the State Treasurer, as above provided, shall draw interest at the rate of fifteen per centum per annum after they are due, and upon such failure to pay, the Attorney General shall proceed by action in the name of the State

HeinOnline -- 1923 138 1923

against such company to collect the same, together with interest and the cost of the suit.

Suit by company when.

(3) Any such company claiming to be aggrieved by the levy of a license tax upon its property, may, within six months from the payment of the tax, and not thereafter, bring and maintain an action against the state in the district court of Lewis and Clark county to recover such part of the tax so paid as shall exceed the amount the company should have paid. The State may be served with the summons in such action by delivering a copy thereof to the Attorney General or leaving it at his office in the Capitol with one of his assistants.

Summons.

Temporary deposit of tax.

(4) But no such company shall be permitted to contest the validity of any tax assessed and levied against it, unless at or before the time of serving its complaint or answer, as the case may be, it shall deposit with the State Treasurer the amount of such tax, together with interest thereon at the rate of fifteen per cent per annum as above provided. In case the amount of the tax justly and equitably due from such company shall be finally determined to be less than the amount so paid, the excess shall be refunded to such company by direction of the court by the State Treasurer.

Estoppel.

Section 8. ESTOPPEL. (1) If any company described in Section 1, or its officers or agents shall unreasonably refuse or neglect to make any report required by law or by the said Board, or shall unreasonably refuse or neglect to answer any material question, or to permit an inspection of its records, books, accounts or papers when requested by said Board, it shall be estopped to question or impeach the action or determination of the Board, except upon satisfactory proof of fraud or mistake injurious to it.

Company may question valuation when.

(2) No such company shall be allowed in any action or proceeding to question the amount or valuation of its property and franchises as assessed by the Board, unless it shall have made and filed with the Board a full and complete report of the facts and information prescribed by law, and called for by the Board; provided, that the refusal or neglect of such company to file its report in time may, on verified petition and for good cause shown, be excused by the Board on condition that such company make a full and complete report disclosing all facts and information required of it within fifteen days after leave is given to file such report, and shall appear before the Board and make full disclosure of

Board may excuse failure to file report.

HeinOnline -- 1923 139 1923

all property liable to assessment and taxation under this Act.

Imposition of first tax.

Section 9. The license tax shall be first imposed and paid for the whole calendar year 1923, and shall be based upon the reports as prescribed in Section 2 for the year 1922, and such report shall be made to the Board by April first, 1923.

License.

Section 10. The receipt by the State Treasurer of the License tax paid in full shall serve as a license to the sleeping car company to conduct its business in the State of Montana during the year when issued.

Repeal of sec. 2314, 2315.

Section 11. Section 2314 and 2315 of the Revised Codes of 1921 are hereby repealed. Provided, however,

Exception.

that no person or corporation shall be relieved or released from the payment of any license tax which such person or corporation should have paid under the provisions of such sections so repealed, and the State of Montana shall have the right to collect and receive from any such person or corporation any such license tax; and for such purpose may maintain and prosecute to final determination any suit, action or proceeding heretofore instituted for such purpose and now pending, and may institute and commence any such suit, action or proceeding for such purpose after the taking effect of this Act.

Section 12. This Act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 65

An Act to Establish a Tax on Direct and Collateral Inheritances, Bequests and Devises; To Provide for its Assessment and Collection; Directing the Dispositions of the Proceeds Thereof; And to Repeal, Subject to Certain Reservations, Sections 10377 to 10400, Both Inclusive, of the Revised Codes of Montana of 1921, And All Other Acts and Parts of Acts in Conflict with this Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Tax imposed.

Section 1. HOW AND WHEN IMPOSED. A Tax shall be and is hereby imposed upon any transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person,

HeinOnline -- 1923 140 1923

association or corporation except the State of Montana, or any of its institutions, county, town or municipal corporations within the state, for strictly county, town, municipal or other public purposes, and corporations of this state organized under its laws, or voluntary associations, organized solely for religious, charitable, or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization, within the state, in the following cases, except as hereinafter provided:

Resident of state.

(1) BY A RESIDENT OF STATE. When the transfer is by will or by intestate laws of this State from any person dying possessed of the property while a resident of the State.

Non-resident's property in state.

(2) NONRESIDENT'S PROPERTY WITHIN STATE. When a transfer is by will or intestate law, of property within the State or within its jurisdiction and the decedent was a nonresident of the State at the time of his death.

In contemplation of death.

(3) IN CONTEMPLATION OF DEATH. When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within the state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale or gift, made within two years prior to the death of the grantor, vendor or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without a fair consideration in money or moneys worth shall, unless shown to the contrary be deemed to have been made in contemplation of death within the meaning of this section.

When imposed.

(4) WHEN IMPOSED. Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this act; provided that the provisions of this act shall apply to all estates of all decedents who have died since the first day of April, 1921, and which estates remain undistributed on the date when this act takes effect, to the same extent and in the same manner as though this act had been in full force and effect at the dates of death of such decedents, and if any

Applies to what estates.

HeinOnline -- 1923 141 1923

Taxes paid before this act.

tax shall have been paid by any executor, administrator, heir, legatee or devisee of any such decedent before the date when this act takes effect, the amount of such tax so paid shall be allowed as a credit on the total amount of tax required to be paid by such executor, administrator, heir, legatee, or devisee under the provisions of this Act.

When transfer is under appointment.

(5) TRANSFER UNDER POWER OF APPOINTMENT. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act, shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related, had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

Failure to exercise power of appointment.

Joint estates.

(6) JOINT ESTATES. Whenever any property, real or personal, is held in the joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons, the right of the surviving tenant by the entirety, joint tenant, or joint tenants, person or persons, to the immediate ownership or possession of such property shall be deemed a transfer of one-half or other proper fraction thereof as though the property to which such transfer relates belonged to the tenants by the entirety, joint tenants, or joint depositors as tenants in common, and had been bequeathed or devised to the surviving tenant by the entirety, joint tenant, or joint tenants, person or persons, by such deceased tenant by the entirety, joint tenant, or joint depositor, by will, except such part thereof as may

HeinOnline -- 1923 142 1923

be shown to have originally belonged to the survivor and never to have belonged to the decedent.

Insurance, part of estate.

(7) INSURANCE PART OF ESTATE. All insurance payable upon the death of any person over and above fifty thousand Dollars ($50,000), shall be deemed a part of the property and estate passing to the person or persons entitled to receive the same and if payable to more than one person the said fifty thousand dollars ($50,000) exemption shall be pro-rated between such persons in proportion to the amount of insurance payable to each.

Tax imposed on clear market value.

(8) ON CLEAR MARKET VALUE. The tax so imposed shall be upon the clear market value of such property passing by any such transfer to each person, institution, association, corporation, or body politic, at the rates hereinafter prescribed and only upon the excess of the exemption hereinafter granted to such person, institution, association, corporation or body politic, and in determining the clear market value of the property so passing by any such transfer the following deductions, and no other shall be allowed; debts of the decedent owing at the date of death, expenses of funeral and last illness, all state, county and municipal taxes which are a lien against property situated in this State at the date of death, the ordinary expenses of administration, including the commissions and fees of executors and administrators and their attorneys actually allowed and paid, and Federal estate taxes due or paid.

Deductions allowed.

Primary rates—not in excess of $25,000.00.

Section 2. PRIMARY RATES, WHERE NOT IN EXCESS OF $25,000. When the property or any beneficial interest therein passes by any such transfer to any person, institution, association, corporation or body politic, where the amount of the property shall exceed in value the exemption hereinafter specified, and shall not exceed in value twenty-five thousand dollars, the tax hereby imposed shall be:

1%.

(1) ONE PER CENT. Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal issue, lineal ancester of the decedent or any child adopted as such in conformity with law, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent, provided however, such relationship began at or before the child's fifteenth birthday, and was continuous for ten years, or any lineal

HeinOnline -- 1923 143 1923

issue of such adopted or mutually acknowledged child, at the rate of one per cent of the clear value of such interest in such property passing to such person.

2%. (2) TWO PER CENT. Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendent of a brother or sister of the decedent, a wife of a son, or the husband of a daughter of the decedent, at the rate of two per cent of the clear value of such interest in such property passing to such person.

3%. (3) THREE PER CENT. Where the person or persons entitled to any beneficial interest in such property shall be the uncle, aunt, or first cousin of the decedent, at the rate of three per cent of the clear value of such interest in such property passing to such person.

4%. (4) FOUR PER CENT. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of Four per cent of the clear value of such interest in such property passing to such person, institution, association, corporation or body politic.

Other rates—above $25,000.00. Section 3. OTHER RATES; WHERE IN EXCESS OF $25,000. The foregoing rates in Section 2 are for convenience termed the primary rates.

When the amount of the clear value of such property or interests exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

$25,000.00 to $50,000. (1) RATE WHERE AMOUNT $25,000 to $50,000. Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, two times the primary rates.

$50,000 to $100,000. (2) RATE WHERE AMOUNT $50,000 to $100,000. Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, three times the primary rates.

$100,000 and above. (3) RATE WHERE AMOUNT OVER $100,000. Upon all in excess of one hundred thousand dollars, four times the primary rates.

Exemptions. Section 4. EXEMPTIONS FROM FIRST $25,000. The following exemptions from the tax are hereby allowed, the exemption allowed to each person, institu-

HeinOnline -- 1923 144 1923

tion, asociation, corporation and body politic to be taken out of the first twenty-five thousand dollars passing by any such transfer to such person, institution, association, corporation or body politic.

Property transfers exempt.

(1) TRANSFERS TOTALLY EXEMPT. All property transferred to the state or any of its institutions, or to municipal corporations within the state for strictly county, city, town, or municipal purposes, or to corporations or voluntary associations of this state organized under its laws solely for religious, charitable, educational or other public purposes, which shall use the property so transferred exclusively for the purpose of their organization within the state, shall be exempt.

Exemptions $17,500, $5,000, $2,000.

(2) $17,500; $5,000; $2,000 EXEMPT, WHEN. Property of the clear value of seventeen thousand five hundred dollars, transferred to the wife, or five thousand dollars transferred to the husband of the decedent, and two thousand dollars transferred to each of the other persons described in the first subdivision of Section 2 shall be exempt. Such exemption to the widow shall include all her statutory dower and other allowances. Any child of the decedent shall be entitled to credit for so much of the tax paid by the widow as applied to any property which shall thereafter be transferred by or from such widow to any such child, provided the widow does not survive said decedent to exceed ten years.

$500 exempt when.

(3) $500 EXEMPT, WHEN. Property of the clear value of five hundred dollars transferred to each of the persons described in the second subdivision of Section 2 shall be exempt.

Out-of-state property exempt when.

(4) PROPERTY WITHOUT THE STATE EXEMPT, WHEN. No tax shall be imposed upon any tangible personal property of a resident decedent when such property is located without this state, and when the transfer of such property is subject to an inheritance or transfer tax in the state where located and which tax has actually been paid, secured or guaranteed, provided such property is not without this state temporarily nor for the sole purpose of deposit or safekeeping; and provided the laws of the state where such property is located allow a like exemption in relation to such property left by a resident of that state and located in this state.

Exceptions.

Tax due when.

Section 5. (1) TAX WHEN DUE; LIEN; LIABILITY. All taxes imposed by this act shall be due and payable at the time of the death of the decedent, except

HeinOnline -- 1923 145 1923

Tax is lien. Liability.

as hereinafter provided; and every such tax shall be and remain a lien upon the property transferred until paid, and the person to whom the property is transferred and the administrators, executors, and trustees of every estate so transferred shall be personally liable for such tax until its payment.

Tax paid where.

(2) COUNTY TREASURERS' RECEIPT. The tax shall be paid to the State Treasurer or to the treasurer of the county in which the district court is situated having jurisdiction as herein provided, and if paid to the county treasurer said treasurer shall make triplicate receipts of such payment, one of which he shall immediately send to the state treasurer, whose duty it shall be to charge the county treasurer so receiving the tax, with the amount thereof, and the other receipt shall be delivered to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts. One he shall keep on file in his office.

Receipts.

Final accounting.

(3) FINAL ACCOUNTING ON FILING RECEIPT. No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in settlement of which a tax is due under the provisions of this act, unless he shall produce such receipt or a certified copy thereof or unless a bond shall have been filed as prescribed by Section 8.

When bond given.

5% discount.

Section 6. DISCOUNT; INTEREST. If such tax is paid within eighteen months from the accruing thereof, a discount of five per cent shall be allowed and deducted therefrom. If such tax is not paid within eighteen months from the accruing thereof, interest shall be charged and collected thereon at the rate of ten per cent per annum from the time the tax accrued; unless by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, such tax shall not be determined and paid as herein provided, in which case interest at the rate of six per cent shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which ten per cent shall be charged, provided that litigation to defeat the payment of the tax shall not be considered necessary litigation.

Interest charge.

When bond given.

In all cases when a bond shall be given under the provisions of Section 9, interest shall be charged at the rate of six per cent after one year from the date of death, until the date of payment thereof.

Sale by executor to meet tax.

Section 7. EXECUTORS; POWERS; COLLECTION AND PAYMENT. Every executor, administrator or trus-

HeinOnline -- 1923 146 1923

tee shall have full power to sell so much of the property of the decedent as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of the testator or intestate. Any such administrator, executor, or trustee, having in charge or in trust any legacy or property for distribution, subject to such tax, shall deduct the tax therefrom; and within thirty days therefrom shall pay over the same to the county treasurer, as herein provided. If such legacy or property be not in money, he shall collect the tax thereon upon the appraised value thereof, from the person entitled thereto. He shall not deliver or be compelled to deliver any specific legacy or property subject to tax under this law, to any person until he shall have collected the tax thereon. If any such legacy shall be charged upon or payable out of real property, the heir or devisee shall deduct such tax therefrom and pay it to the administrator, executor, or trustee and the tax shall remain a lien or charge on such real property until paid, and the payment thereof shall be enforced by the executor, administrator, or trustee in the same manner that payment of the legacy might be enforced, or by the attorney general under Section 16 of this act. If any such legacy shall be given in money to any such person for a limited period, the administrator, executor, or trustee shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment if the case require it, of the sum to be paid into the hands of such legatees, and for such further order relative thereto as the case may require.

Payment of tax.

Collection of tax.

When payable out of real property.

Lien.

Payment enforced how.

Legacy given in money.

Application to court when.

Section 8. (1) REFUNDING TAX. If any debt shall be proved against the estate of the decedent, after the payment of any legacy or distributive share thereof, from which any such tax has been deducted, or upon which it has been paid by the person entitled to such legacy or distributive share and such person is required by the order of the district court having jurisdiction of the tax so deducted or paid, to refund the amount of such debts or any part thereof, an equitable proportion thereof shall be repaid to such person by the executor, administrator or trustee, if the said tax has not been paid to the county treasurer of State Treasurer, or by them, in the proper proportionate shares, if it has been so paid.

Refunding tax.

HeinOnline -- 1923 147 1923

Refund how made.

(2) HOW REFUND OF TAX MADE. When any amount of said tax shall have been paid erroneously to the county and state treasurer, or to either of them, it shall be lawful for them, on satisfactory proof to the State Board of Equalization of such erroneous payment, to refund to the executor, administrator, person or persons who shall have paid any such tax in error, the county's and state's proportionate amount of such tax so paid; provided that all such applications for refund shall be made within two (2) years from the date of such payment.

Application for refund.

Advance payment of tax.

(3) ADVANCE PAYMENT OF TAX. Any person from whom any such tax is or may be due may make an estimate of and pay the same to the county treasurer, who shall receipt therefor, at any time before the same is determined by the court, and shall thereupon be relieved from any interest or penalty upon the amount so paid in the same manner as if the tax were then determined. Any excess so paid shall be refunded to the person so paying or entitled thereto by such treasurer out of any inheritance tax money in his possession, or by the state treasurer when the county treasurer is without such money, upon filing with such treasurer a copy of the order fixing such tax, and attached thereto a certificate of the judge stating the amount of refund due.

Refund of excess.

Section 9. BOND FOR PAYMENT OF DEFERRED TAX. Any beneficiary of any property chargeable with a tax under this act, and any executors, administrators and trustees thereof, may elect, within eighteen months from the date of the death of decedent or transfer thereof as herein provided, not to pay such tax until the person or persons beneficially interested therein shall come into the actual possession or enjoyment thereof. The person or persons so electing shall give a bond to the state in a penalty of three times the amount of any such tax, with such sureties as the district court of the proper county or the State Board of Equalization, as the case may be, may approve, conditioned for the payment of such tax and interest thereon, at such time or period as the person or persons beneficially interested therein may come into the actual possession or enjoyment of such property, which bond shall be filed in the district court, or in the office of the State Treasurer as the case may be. Such bond must be executed and filed and a full return of such property upon oath made to the district court within

Executor may elect to defer tax, when.

Bond.

Bond filed how and when.

HeinOnline -- 1923 148 1923

eighteen months from the date of the death of decedent or transfer as herein provided, and such bond must be renewed every five years, and said deferred tax shall bear interest at 6% per cent per annum after such eighteen months.

Interest deferred tax.

Section 10. BEQUESTS TO EXECUTORS FOR SERVICES. If a testator bequeaths property to one or more executors or trustees in lieu of their commissions or allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed, above the amount of commissions or allowances prescribed by law in similar cases, shall be taxable by this act.

Excess above executor's com'ns taxable.

SECTION 11. (1) TRANSFER OF STOCK BY FOREIGN EXECUTORS. If a foreign executor, administrator, or trustee shall assign or transfer any stock or obligations in this state, or within the jurisdiction of this state standing in the name of a decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county or the state treasurer on the transfer thereof; otherwise the corporation permitting such transfer shall become liable to pay such tax.

Transfer of stock by foreign executors.

Liability.

(2) NONRESIDENT DECEDENT; NOTICE OF TRANSFER; ORDER OF COURT. No safe deposit company, bank, or other institution, person or persons, holding securities or assets of a nonresident decedent, nor any foreign or domestic corporation doing business within this state in which a nonresident decedent held stock at his decease, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the State Board of Equalization at least ten days prior to the said transfer; nor shall any such safe deposit company, bank, or other institution, person or persons, nor any foreign or domestic corporation, deliver or transfer any securities or assets of the estate of a nonresident decedent without retaining a sufficient portion or amount thereof to pay any tax which may thereafter be assessed on account of the transfer of such securities or assets under the provisions of the inheritance tax laws, without an order from the proper court authorizing such transfer; and it shall be

Non-resident decedent.

Notice of transfer.

Order of court.

HeinOnline -- 1923 149 1923

Board may examine assets.

lawful for the State Board of Equalization, personally or by representative, to examine said securities or assets at any time before such delivery or transfer. Failure to serve such notice or to allow such examination or to retain a sufficient portion or amount to pay such tax as herein provided, shall render said safe deposit company, trust company, bank, or other institution, person or persons, or such foreign or domestic corporation, liable to the payment of the tax due upon said securities or assets in pursuance of the provisions of the inheritance tax laws. The State Board of Equalization may issue a certificate authorizing the transfer of any such stock, securities or assets whenever it appears to the satisfaction of the said Board that no tax is due thereon.

Failure to serve notice or allow examination.

Board may authorize transfer.

Apportionment corporate property.

(3 CORPORATE PROPERTY TO BE APPORTIONED. Where stocks, bonds, mortgages, or other securities of corporations organized under the laws of this state, or of foreign corporations owning property or doing business in this state shall have been transferred by a nonresident decedent, the tax shall be upon such proportion of the value thereof as the property of such corporation in this state bears to the total property of the corporation issuing such stocks, bonds, mortgages, or other securities.

Apportionment of holding companies.

(4) HOLDING COMPANY; APPORTIONMENT. If any stocks, bonds, mortgages, or other securities of a holding company or other corporation are based upon or represent in whole or in part the value of any stocks, bonds, mortgages, or other securities of a Montana corporation or a corporation owning property in this state, either directly or indirectly, the transfer of the stocks, bonds, mortgages, or other securities of such holding company or other corporation shall be subject to the inheritance tax in the proportion which the Montana property bears to the total property represented by or subject to the total stocks, bonds, mortgages, or other securities of which those so transferred are a part.

Apportionment of part property debts.

(5) DEBTS, EXEMPTIONS, ETC., TO BE APPORTIONED. Whenever a tax may be due from the estate, or the beneficiaries therein, of any resident or nonresident decedent upon the transfer of any property, when the property or estate left by such decedent is partly within and partly without this state, or upon any stocks, bonds, mortgages, or other securities representing property or estate partly within and partly without this state, any beneficiary of such estate shall be entitled to deduct

Exemptions.

HeinOnline -- 1923 150 1923

only a portion of his share of the debts, expenses of administration, federal estate taxes, and of his Montana exemption, equal to the proportion which his interest in the property within the state or within its jurisdiction bears to his entire interest in such estate.

Board regulations and orders.

(6) INFORMATION TO BOARD; RETAINING AMOUNT OF TAX. The State Board of Equalization shall require such reports and information and shall make such orders, rules, and regulations as it may deem necessary to enable the said board to secure the necessary information from corporations, domestic and foreign, and to ascertain the amount of and collect such tax; and no holding company or other corporation subject to the provisions of this section shall deliver or transfer any such stocks, bonds, mortgages, or other securities of a nonresident decedent based upon or representing in whole or in part, directly or indirectly the value of Montana property, or stocks, bonds, mortgages, or other securities of a Montana corporation or a corporation owning property in this state, without retaining a sufficient portion thereof to pay any tax which may thereafter be assessed under the provisions of this act on account of such transfer, except upon order of the proper court or a certificate of consent of the State Board of Equalization.

Corporation may not transfer except by retaining tax.

Penalties.

(7) PENALTIES. Any corporation or holding company violating the provisions of this section shall be liable to the state for the amount of the tax together with a penalty of ten per cent thereof.

District court jurisdiction.

Section 12. (1) DISTRICT COURTS; JURISDICTION. The district court of every county of the state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent whose property is chargeable with any tax under the inheritance tax laws, or to appoint a trustee of such estate or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of the inheritance tax laws, and to do any act in relation thereto authorized by law to be done by a district court in other matters or proceedings coming within its jurisdiction; and if two or more district courts shall be entitled to exercise any such jurisdiction, the district court first acquiring jurisdiction hereunder, shall retain the same to the exclusion of every other district court.

HeinOnline -- 1923 151 1923

Petition for ancillary letters.

(2) PETITION FOR ANCILLARY LETTERS. Every petition for ancillary letters testamentary or of administration shall include the State Board of Equalization as a person to be notified, and a true and correct statement of all the decedent's property in this state with the value thereof; upon presentation thereof the district court shall cause the order for hearing to be served upon the said board: and upon the hearing the district court shall determine the amount of the inheritance tax which may be or become due and the decree awarding the letters may contain provisions for the payment of such tax or the giving of security therefor.

Order for hearing.

Judgment.

Application to board for determination of tax due.

(3) DETERMINATION BY STATE BOARD OF EQUALIZATION. Any personal representative, trustee, heir, devisee or legatee of a nonresident decedent leaving no estate requiring administration in this state, desiring to transfer any stocks, bonds, mortgages or other securities, or other personal property in this state or within the jurisdiction of this state, may make application to the State Board of Equalization for the determination whether there is any tax due upon account of the transfer thereof, and the amount of any such tax, and such applicant shall furnish to the State Board of Equalization therewith, an affidavit setting forth a description and statement of the property owned by the decedent situated within this state, or within its jurisdiction at the time of his death, the true value of said property at the time of decedent's death; a description and statement of the true value of all property owned by the decedent at the time of his death situated outside of this state and without its jurisdiction; and containing a schedule or statement of all valid claims against the estate of the decedent, including the expenses of his last illness, funeral expenses and expenses of administering his estate. Such applicant shall also, at the same time, furnish the State Board of Equalization with a certified copy of the last will of the decedent, in case he died testate, or an affidavit setting forth the names, ages, and residences of the heirs at law of decedent in case he died intestate, and the proportion of the entire estate of said decedent inherited by each of said persons, and the relation, if any, which each legatee, devisee, heir, or transferee sustained to the decedent, or person from whom the transfer was made. Such affidavit shall be subscribed and sworn to by the personal representative of the decedent, or some

Duty of applicant.

HeinOnline -- 1923 152 1923

other person having knowledge of the facts therein set forth.

Statements not binding on board.

The statements contained in any affidavits, statements or schedules as to values, or otherwise, shall not be binding upon the State Board of Equalization in case they believe the same to be erroneous or untrue. From the information so furnished them and such other information as they may be able to obtain with reference thereto, the State Board of Equalization shall, with reasonable diligence, proceed to ascertain and determine the amount of tax, if any, due under the provisions of this act, and notify the person making the application of the amount of the tax so ascertained and determined to be due; or in case there is no tax to be paid, the State Board of Equalization shall issue a consent to the transfer of the property so owned by the decedent.

Board shall determine tax or consent to transfer.

Appeals.

Any person aggrieved by the determination of the State Board of Equalization in any matter herein provided for in this subdivision, may, within thirty (30) days thereafter, appeal to the district court of Lewis and Clark County, by serving on the State Board of Equalization a notice in writing setting forth his objections to such determination, and by filing such notice, after so serving the same, in the office of the clerk of such court, and thereupon, and within (10) days after the service of such notice on them the State Board of Equalization shall transmit full and complete copies of all original papers and records which have been filed with them in relation to such application, to the Clerk of said District Court, and thereupon the said District Court shall have jurisdiction of such application and proceeding. Upon ten days notice given by either the applicant or the State Board of Equalization, the matter may be brought on for hearing and determination by said court, either in term time or in vacation, at a general or special term of court, or at chambers, as may be directed by the order of the court.

Notice of.

Duty of board to transmit records.

Hearing.

Personal property of non-resident decedent where no application for determination of tax.

(4) NONRESIDENT ESTATES; JURISDICTION. Whenever any nonresident decedent, leaving no estate requiring administration in this state, shall leave any stocks, bonds, mortgages, or other securities, or other personal property within this state or within the jurisdiction thereof, and no personal representative, trustee, heir, devisee, or legatee of such nonresident decedent has made application to the State Board of Equalization

HeinOnline -- 1923 153 1923

for the determination as to whether there is any tax due for the transfer thereof and the amount of such tax, if any, the State Board of Equalization, upon such matter being called to its attention, shall make an order, and cause a copy thereof to be served upon the personal representative, trustee, heirs, devisees or legatees of such nonresident decedent, ordering and directing that a statement and return, under oath, containing the statements and information prescribed in subdivision 3 of this Section, be filed with such Board within sixty (60) days from the date of such order, or within such further time as the State Board of Equalization may grant therefor; and if such statement is not filed with the State Board of Equalization within such time the State Board of Equalization may then procure such information in any manner it may deem advisable. Upon the filing of such statement, or the procuring of such information by the State Board of Equalization in the event of a failure to file the same in compliance with such order, the State Board of Equalization shall proceed in the same manner as prescribed by subdivision 3 of this Section, and all provisions thereof with reference to hearings and appeals shall be applicable thereto.

Duty of board to issue order to heirs, etc.

Failure of heirs to file statement.

Determination of tax.

Special appraiser.

Section 13. SPECIAL APPRAISER. The district court, upon the application of any interested party, including the State Board of Equalization, or upon its own motion, shall as often as, and whenever occasion may require, appoint a competent person as special appraiser to fix the fair market value at the time of the transfer thereof of the property of persons whose estate shall be subject to the payment of any tax imposed by this Act.

Duties of special appraiser.

Section 14. SPECIAL APPRAISER: DUTIES; POWERS; COMPENSATION. Every such appraiser shall forthwith give notice by mail to all persons known to have a claim or interest in the property to be appraised, including the State Board of Equalization, and to such persons as the district court may by order direct, of the time and place when he will appraise such property. He shall, at such time and place, appraise the same at its fair market value, as herein prescribed, and for that purpose the said appraiser is authorized to issue subpoenas and to compel the attendance of witnesses before him and to take the evidence of such witnesses under oath concerning such property and the value thereof; and he shall make report thereof and of such

HeinOnline -- 1923 154 1923

value in writing, to the said district court, together with the depositions of the witnesses examined, and such other facts in relation thereto and to the said matter as the said district court may order or require. Every appraiser shall be paid on the certificate of the district court at the rate of not to exceed ten dollars per day for every day actually and necessarily employed in such appraisal, and shall receive his actual and necessary traveling expenses, and witnesses shall be allowed the same fees as are allowed witnesses in civil actions in courts of record and the same shall be paid by the county treasurer on the certificate of the district judge, out of any funds he may have in his hands on account of any of the state's inheritance tax funds in his possession.

Compensation and expenses.

Section 15. (1) HEARING BY THE COURT. The report of the special appraiser shall be made in triplicate, and not less than ten days before the hearing thereon one of said triplicates shall be filed in the office of the district court, one to the administrator or the executor, and the other shall be mailed to the State Board of Equalization. At the time and place of hearing the administration account the district court shall examine such report, and from the report and other proofs relating to any such estate shall forthwith determine the cash value of such estate and the amount of tax to which the same is liable; or, the district court without appointing such appraiser may at the time so fixed hear evidence and determine the cash value of such estate and the amount of tax to which the same is liable.

Report of appraiser.

Hearing.

Court to determine tax.

(2) NOTICE OF HEARING. Notice of such hearing to determine the inheritance tax shall be given in the same manner and may be included in the notice of hearing the administration account as provided by law, except where it is clearly evident that no tax is due; but notice in writing of such hearing shall be mailed to the State Board of Equalization not less than ten days before such hearing upon such blanks and containing such information as the State Board of Equalization may provide.

Notice of hearing.

(3) APPRAISER TO REPRESENT COUNTY AND STATE. If the district court without appointing such special appraiser decide to hear evidence as to the cash value of the estate for inheritance tax purposes, the court may, at the time of the appointment of the regular appraisers of the state, or at any time thereafter, on its own motion, or on motion of hte State Board of Equaliza-

Appraiser appointed at option of court.

HeinOnline -- 1923 155 1923

tion designate an additional appraiser to represent the state, and such additional appraiser shall report the inventory and appraisal of said property with the other appraisers; or, in case of failure to agree, in a separate report, and be entitled to compensation of five dollars per day for each day necessarily employed in such appraisal, and his mileage, which fees shall be paid on the certificate of the district judge by the county treasurer out of any of the state's inheritance tax funds he may have in his possession.

Compensation.

Valuation by com'r of insurance.

(4) COMMISSIONER OF INSURANCE TO VALUE FUTURE ESTATES, ETC. The commissioner of Insurance shall, on application of any district court or of the State Board of Equalization, determine the value of any such future or contingent estates, income, or interests therein, limited, contingent, dependent, or determinable upon the life or lives of the person or persons in being, upon the facts contained in the district court's finding and determination and contained in such special appraiser's report and upon the facts certify the same to the district court or State Board of Equalization, and his certificate shall be presumptive evidence that the method of computation adopted therein is correct.

Appraisal at clear value.

(5) APPRAISAL AT CLEAR MARKET VALUE; ANNUITIES, HOW COMPUTED. Whenever a transfer of property is made upon which there is, or in any contingency there may be, a tax imposed, such property shall be appraised at its clear market value immediately upon the transfer or as soon thereafter as practicable. The

Value determined how.

value of every future or limited estate, income, interest, or annuity dependent upon any life or lives in being, shall be determined by the rule, method, and standard of mortality and value employed by the commissioner of insurance in ascertaining the value of policies of life insurance and annuities for the determination of liabilities of

Rate of interest.

life insurance companies, except that the rate of interest for making such computation shall be five per cent per

Tax construed how.

annum. The tax so determined shall be construed to be upon the transfer of a proportion of the principal or corpus of the estate equal to the present value of such future or limited estate, income, interest or annuity, and not upon any earnings or income of said property pro-

Tax payable when.

duced after death. Such tax shall be due and payable forthwith, except as otherwise provided in this act.

HeinOnline -- 1923 156 1923

Contingent incumbrances.

(6) CONTINGENT INCUMBRANCES. In estimating the value of any estate or interest in property to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made in respect of any contingent incumbrance thereon, nor in respect of any contingency upon the happening of which the estate or property or some part thereof, or interest therein, might be abridged, defeated or diminished; provided, however, that in the event of such incumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgement, defeat, or diminution of such estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax in respect of the amount or value of the incumbrance when taking effect or so much as will reduce the same to the amount which would have been assessed in respect to the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided in Section 8.

Return of proportinate amount when.

Interest determinable by death.

(7) INTEREST DETERMINABLE BY DEATH. Where any property shall, after the passage of this act, be transferred subject to any charge, estate, or interest determinable by the death of any person or at any period ascertainable only by reference to death, the increase of benefit accruing to any person or corporation upon the extinction or determination of such charge, estate or interest shall be deemed a transfer of property taxable under the provisions of this act in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase of benefit from the person from whom the title to their respective estates or interests is derived.

Tax payable forthwith on contingent estate.

(8) TAX PAYABLE FORTHWITH ON CONTINGENT ESTATE. When property is transferred in trust or otherwise, and the rights, interests, or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon such transfer at the lowest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith out of the property transferred; provided, however, that

Exception when higher tax imposed.

HeinOnline -- 1923 157 1923

on the happening of any contingency or condition whereby the said property or any part thereof is transferred to a person or corporation, which under the provisions of this act is required to pay a tax at a higher rate than the tax imposed, then such transferree shall pay the difference between the tax imposed and the tax at the higher rate, and the amount of such increased tax shall be enforced and collected as provided in this act.

Postponed tax on undiminished value.

(9) POSTPONED TAX ON UNDIMINISHED VALUE. Estates in Expectancy which are contingent or defeasible, and in which proceedings for determination of the tax have not been taken, or where the taxation thereof has been held in abeyance, shall be appraised at their full undiminished clear value when the person entitled thereto shall come into the beneficial enjoyment or possession thereof without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation upon which said estates in expectancy may have been limited. Where an estate for life or for years can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of such divesting.

Order determining tax.

(10) ORDER DETERMINING TAX; CONTENTS; NOTICE. Upon the determination by the district court of the value of any estate which is taxable under the inheritance tax laws, and of the tax to which it is liable, an order shall be entered by the court determining the same,

Contents.

which order shall include a statement of (a) the date of death of the decedent, (b) the gross value of the real and personal property of such estate, stating the principal items thereof, (c) the deductions therefrom allowed by the court, (d) the names and relationship of the persons entitled to receive the same, with the amount received by each, (e) the rates and amounts of inheritance tax for which each such person is liable, and the total amount of tax to be paid, (f) a statement of the amount of interest or penalty due, if any. Such order shall be substantially in the form prescribed by the State Board of Equalization. A copy of the same shall be delivered or mailed to the county treasurer, the state treasurer, the administrator or executor, and the State Board of Equalization, and no final judgment shall be entered in such estates until due proof is filed with the court that such copies have been so delivered or mailed, and receipts are filed in such court showing that payment of all such

Copies filed where.

Judgment.

HeinOnline -- 1923 158 1923

taxes, or proof is filed showing that the bond authorized by Section 8 has been given.

Rehearing.

(11) REHEARING WITHIN SIXTY DAYS. The attorney general, State Board of Equalization, public administrator, county attorney, or any person dissatisfied with the appraisement or assessment and determination of such tax may apply for a rehearing thereof before the district court within sixty days from the fixing, assessing, and determination of the tax by the district court as herein provided on filing a written notice which shall state the grounds of the application for a rehearing. The rehearing shall be upon the records, proceedings, and proofs had and taken on the hearing as herein provided unless additional or newly discovered evidence be alleged therefor, and a new trial shall not be had or granted unless specially ordered by the district court.

Reappraisal.

(12) REAPPRAISEMENT IN THE DISTRICT COURT WITHIN ONE YEAR. Within one year after the entry of an order or decree of the district court, determining the value of an estate and assessing the tax thereon, the attorney general may, if he believes that such appraisal, assessment, or determination has been fraudulently or collusively made, make application to the district judge for a reappraisal thereof. The district court to whom such application is made may thereupon appoint a competent person to reappraise each estate. Such appraiser shall possess the powers, be subject to the duties, shall give the notice and receive the compensation provided by Sections 14 and 15 of this act. Such compensation shall be payable by the county treasurer out of any funds he may have on account of any tax imposed under the provisions of this act, upon the certificate of the district judge. The report of such appraiser shall be filed in the office of the clerk of the district court, and thereafter the same proceedings shall be taken and had by and before such district court as herein provided to be taken and had by and before the said court. The determination and assessment of such district court, shall supercede the former determination and assessment of such court, and shall be filed in the office of the county treasurer, state treasurer, and State Board of Equalization.

Court may appoint appraiser.

Duties and compensation.

Report of appraisal.

Determination.

Unpaid taxes.

Section 16. UNPAID TAXES; PROCEEDINGS TO COLLECT. If any county treasurer, state treasurer, or the State Board of Equalization shall have reason to be-

HeinOnline -- 1923 159 1923

Notice to att'y general and duty of.

lieve that any tax is due and unpaid under the provisions of this act, after the refusal or neglect of any person liable therefor to pay the same, he or they, shall notify the Attorney General in writing of such failure or neglect, and the Attorney General, if he have probable cause to believe that such tax is due and unpaid, shall apply to the district court for a citation citing the person liable to pay such tax to appear before the court on the day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the district court upon such application and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation and the time, manner and proof thereof, and the hearing and determination thereof, shall conform as near as may be to the provisions of the laws governing probate practice of this state, and whenever it shall appear that any such tax is due and payable, and the payment thereof cannot be enforced under the provisions of this act, in said district court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax, and it shall be the duty of the attorney general, in the name of the state, to sue for and enforce the collection of such tax, and it is made the duty of the county attorney of the county to appear for and act on behalf of any county treasurer, who shall be cited to appear before any district court under the provisions of this act.

Court to issue citation.

Liability to state.

Duty of att'y general and county attorney.

Special administration to determine tax.

Section 17. (1) SPECIAL ADMINISTRATION TO DETERMINE TAX. When no application for administration of the estate of any deceased person is made within six months after the demise of such person, and such estate appears to come under the provisions of the inheritance tax laws, or when administration has been completed without determining the tax, the public administrator of the proper county, or any person interested in such estate, may make application for such special or general administration as may be necessary for the purpose of the adjustment and payment of such tax, if any, or if no tax is due, for an order determining that fact. In cases arising under this and the following subsection, the public administrator, if appointed such special administrator, shall be entitled in the discretion of the court to the fees allowed by law to administrators,

Fees of special administrator.

HeinOnline -- 1923 160 1923

or to other reasonable compensation, unless it be found that no tax is due.

Duty special administrator in transfers made in contemplation of death.

(2) WHERE TRANSFER MADE IN CONTEMPLATION OF DEATH. Where it appears that the estate of a deceased person subject to the inheritance tax laws was transferred in contemplation of the death of the grantor without the adjustment and payment of the inheritance taxes and no application for such adjustment is made within six months after the demise of such grantor, the public administrator of the proper county shall notify the State Board of Equalization and on its order make application for and shall be entitled to such general or special administration as may be necessary for the purpose of the adjustment and payment of the inheritance taxes provided by law and shall administer such estate the same as other estates are administered as though such estate had not been transferred by the grantor.

Public administrator, duties.

(3) PUBLIC ADMINISTRATOR; DUTIES; COMPENSATION. It shall be the duty of the public administrator, under the general supervision of the State Board of Equalization, and with the assistance of the county attorney, when required by the said Board or district judge, to investigate the estates of deceased persons within his county and to appear for and act in behalf of the county and state in the district court in such estates as the court may in its discretion deem necessary, and for such services the public administrator shall be entitled to five per cent of the gross inheritance tax as determined in each such estate, to be paid by the county treasurer out of the inheritance tax funds upon an order of the district judge, provided that the minimum fee for each such estate shall not be less than five dollars, and that it shall not exceed twenty-five dollars; but in cases of unusual difficulty, in estates of resident decedents, where the tax exceeds five hundred dollars, the district judge may allow the public administrator such additional compensation as he may deem just and reasonable.

Compensation.

Board to supervise inheritance tax.

Section 18. (1) STATE BOARD OF EQUALIZATION TO SUPERVISE INHERITANCE TAX. It shall be the duty of the State Board of Equalization to supervise the administration of, and to investigate and cause to be investigated the administration of the inheritance tax laws, and such particular estates to which

HeinOnline -- 1923 161 1923

the inheritance tax laws apply throughout the various counties of the state, and to cause to be made and filed in its office reports of such investigation together with specific information and facts as to particular estates that may seem to require special consideration and attention by the legal department of the state; but no information so acquired shall, in advance of legal action, be disclosed to anyone except proper officials and persons interested in such estate.

Powers and duties of board.

(2) POWERS AND DUTIES OF THE BOARD. The State Board of Equalization in the conduct of inheritance tax affairs, shall have the same and similar powers and authority for gathering information and making investigations as is conferred by law on said board in the performance of its other duties. The said board shall bienially report to the governor and to the legislature at the opening of the sessions the general result of its labors and investigations in inheritance tax matters during the previous biennial period, together with specific reports of the several counties where the administration of the inheritance tax laws has been lax and unsatisfactory, with such recommendations for action thereon by the legislature as may be deemed advisable and proper.

Biennial report.

Board reports in non-resident estates.

(3) POWERS AND DUTIES IN NONRESIDENT ESTATES. The State Board of Equalization shall also gather information and make investigations and reports concerning the estates of nonresident decedents within the provisions of the inheritance tax laws, and shall especially investigate the probate and other records for such probable estates without the state and report thereon from time to time to the legal department of the state and to the proper district court for appropriate legal action, but no information so acquired shall, in advance of legal action, be disclosed to anyone except proper officials, and persons interested in such estate.

Duty of legal dept.

(4) DUTY OF THE LEGAL DEPARTMENT. It shall be the duty of the legal department of the state to carry out and enforce the recommendations and directions of the State Board of Equalization in all matters pertaining to the conduct of inheritance tax affairs; and in every estate in which the amount of inheritance tax collectible shall exceed or probably exceed the sum of one thousand dollars, there shall be no compound-

HeinOnline -- 1923 162 1923

ing, composition, or settlement of the taxes under the authority conferred by Section 20, or otherwise, until the State Board of Equalization shall have investigated such estate and made a report thereon, nor until the said board consents to such compounding, compromise, or settlement.

Forms.

(5) FORMS AND BLANKS. The State Board of Equalization shall prescribe such forms and prepare such blanks as may be necessary in inheritance tax proceedings in the district courts of the state; and such blanks shall be printed at the expense of the state and furnished to the district courts upon the request of the judge or clerk thereof.

Quarterly reports county treasurer.

Section 19. QUARTERLY REPORTS OF COUNTY TREASURER; TAX TO BE PAID TO STATE. Each county treasurer shall make a report under oath to the state treasurer, on and prior to the 5th days of January, April, July, and October of each year, of all taxes received by him under the inheritance tax laws, up to the first day of each of said months, stating for what estate, by whom and when paid. The form of such report may be prescribed by the state treasurer. He shall at the same time pay the state treasurer all the taxes received by him under the inheritance tax laws and not previously paid into the state treasury, and for all such taxes collected by him and not paid into the state treasury within five days from the time herein required, he shall pay interest at the rate of ten per cent per annum.

Payment of taxes collected.

Interest on unpaid amounts.

Composition and compromise.

Section 20. COMPOSITION AND COMPROMISE. The State Board of Equalization is authorized to enter into an agreement with the executor, administrator, or trustee of any estate in which remainders or expectant estates have been of such a nature or so disposed and circumstanced that the taxes therein were held not presently payable or where the interests of the legatees or devisees are not ascertainable under the provisions of this act, or whenever a tax is claimed on account of the transfer of any property of a nonresident decedent, and to compound such taxes upon such terms as may be deemed equitable and expedient and to grant discharges to said executors, administrators, or trustees upon the payment of the taxes provided for in such composition, provided, however, that no such composition shall be conclusive in favor of such executors, administrators, or trustees as against the interests of such cestui que trust as may

HeinOnline -- 1923 163 1923

possess either present rights of enjoyment or fixed, absolute, on indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates, unless they consent thereto either personally when competent or by guardian. Composition or settlement made or affected under the provisions of this section shall be executed in triplicate and one copy shall be filed in the office of the clerk of the district court of the county in which the tax was paid; one copy to be delivered to the executors, administrators, or trustees, who shall be parties thereto; and one copy to be retained by said Board.

Receipts.

Section 21. RECEIPTS, COPIES, RECORDING. Any person shall, be entitled to a receipt from the county treasurer of any county, or the state treasurer, or at his option to a copy of a receipt that may have been given by such county treasurer or state treasurer, for the payment of any tax under this act, under the official seal of such county treasurer, or state treasurer, which receipt shall designate upon whose estate such tax shall have been paid, by whom, and whether in full of such tax. Such receipt may be recorded in the office of the county recorder of the county in which such estate is situate in a book to be kept by him for that purpose, which shall be labeled "transfer tax."

Recording.

Definitions:

Estate and property.

Section 22. DEFINITIONS. The words "estate" and "property" as used in this act shall be taken to mean the real and personal property or interest therein passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, or vendees, and not as the property or interest therein of the decedent, grantor, donor, or vendor, and shall include all personal property within or without the state. The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein prescribed to each individual or corporation. The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor, or donor. "Intangible" or "intangible property" when used in this act without other qualifications, shall be taken to include all moneys, stocks, bonds, notes, securities and credits of all kinds, secured or unsecured. The words "county treas-

Transfer.

Decedent.

Intangible property.

HeinOnline -- 1923 164 1923

urer." "public administrator" and "county Attorney," as used in this act shall be taken to mean the treasurer, public administrator, and county attorney of the county in which the district court has jurisdiction of the proceedings.

County treasurer, attorney, public administrator.

Section 23. DISPOSITION OF TAXES. Fifty per cent (50%) of all taxes levied and collected under the provisions of this act, less any deductions authorized under this act, shall be paid into the State Treasury and deposited to the credit of the general fund of the State; and fifty per cent (50%) shall be deposited to the credit of an "Inheritance Tax Fund" and distributed as follows:

Disposition of taxes.

Inheritance tax fund.

The County Superintendent of Schools of each county in the state must, between the 15th day of August and the 1st day of September, in each year, make and file with the state treasurer a statement and certificate showing the total number of teaching positions, in which teachers were employed for a period of at least four months, during the school year ending June 30th immediately preceding, in all of the public schools in such county, including primary, grade, district high and county high schools, provided, however, that if during such school year, or after the close thereof and before the making of such statement and certificate, any portion of the county has been detached therefrom and added to another county, or detached therefrom and included in a new county, the number of teaching positions within the portion of such county so detached shall not be included in the statement and certificate of the county superintendent of schools of the county from which the same is detached, but such teaching positions shall be included in the statement and certificate of the county superintendent of schools of the county from the same is attached, or in the statement and certificate of the county superintendent of schools of the new county.

Distribution.

Report of county supt. of schools relative teaching positions.

Between August 15th and September 1st of each year, the State Treasurer shall apportion the said inheritance tax fund to the several counties of the State in proportion to the total number of teaching positions in which teachers were employed for a period of at least four months, in each county, during the preceding school year, as shown by the statements and certificates of the County Superintendents of Schools, filed with the State

Apportionment of fund to counties.

HeinOnline -- 1923 165 1923

Duties state treasurer.

Treasurer for such school year, and said State Treasurer must, at the time of making such apportionment, notify the County Superintendent of Schools of each county of the amount of such fund which has been apportioned and distributed to his respective county. Within ten days after receiving each such notice from the state treasurer, each county superintendent of schools must apportion the amount received and paid over to his county by the state treasurer, in the following manner, to-wit:— (a) Sixty per centum (60%) thereof shall be apportioned between and among the several school districts, district high schools and county high schools in proportion to the total number of teaching positions in which teachers were employed for at least four months, during the last preceding school year for which a statement and certificate was filed with the state treasurer by the county superintendent of schools, in each such school district, district high and county high school; (b) thirty-five per centum thereof shall be apportioned between and among the several school districts, district high and county high schools in proportion to the aggregate number of days' attendance of all eligible pupils who attended for a period of not less than six weeks during the aforesaid school year in each district school, district high and county high school; (c) five per centum (5%) thereof shall be apportioned between and among the district high schools and county high school in proportion to the number of years of accredited high school work during the aforesaid school year in each such district high and county high school.

Apportionment by county supt. of schools.

Statement filed with county treasurer.

Immediately after making such apportionment the county superintendent of schools must make and file with the county treasurer a statement and certificate showing the total amount apportioned to each school district, district high and county high school, and the county treasurer must, on receiving such statement and certificate, immediately credit the general fund of each school district, district high and county high school with the amount to which each is entitled as shown by such statement and certificate, and such amounts shall be expended for the same purpose for which other moneys deposited to the credit of such funds may be expended, and for no other purpose."

Duty county treasurer.

Appointment and compensation assistants.

Section 24. POWERS OF STATE BOARD TO APPOINT AND FIX COMPENSATION. The State Board

HeinOnline -- 1923 166 1923

of Equalization may employ such other persons as experts and assistants as may be necessary to perform the duties that may be required of the board and fix their compensation.

Oaths administered by board.

Section 25. HEARINGS BY STATE BOARD OF EQUALIZATION; WITNESSES; CONTEMPT, ETC. Oaths to witnesses in any matter under the investigation or consideration of the State Board of Equalization may be administered by the secretary of the board or by any member thereof. In case any witness shall fail to obey any summons to apear before said board or shall refuse to testify or answer any material questions or to produce records, books, papers, or documents, when required to do so, such failure or refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the proper district court to compel obedience to any summons or order of the board or to punish witnesses for any such neglect or refusal. Any person who shall testify falsely in any material manner under the consideration of the said board shall be guilty of and punished for perjury. In the discretion of the said board, officers who serve summons or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the district court.

Failure to obey summons.

Prosecution by att'y general.

False testimony.

Repealing clause.

Section 26. REPEAL. Sections 10377 to 10400, both inclusive of the Revised Codes of Montana, 1921, and all other acts and parts of acts in conflict herewith are hereby repealed, provided, however, that such repeal shall not in any wise affect any suit, prosecution or proceeding pending at the time this act shall take effect, or any right which the State of Montana may have at the time of the taking effect of this act to claim a tax upon any property, or from any person, under the provisions of any of the sections or acts hereby repealed or under any prior laws repealed by such acts and which rights were reserved therein, for which no proceeding has been commenced to collect any tax arising thereunder, and where no proceeding has been commenced to collect any such tax the procedure to collect the same shall conform to the provisions hereof, and such repeal shall not affect any appeal or right of appeal in any suit now pending, or and order or orders fixing or determining the amount of any tax or taxes existing in this state at the time of the taking effect of this act.

Does not affect suits, etc.

HeinOnline -- 1923 167 1923

Section 27. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 66.

An Act to Govern the State Purchasing Department and Prescribing the Duties of the State Purchasing Agent With Reference to the Purchase of Supplies for the Various Offices, Boards, Departments and Institutions of the State of Montana; Prescribing the Manner in Which Said Supplies Shall Be Purchased and Setting Forth the Duties of the State Purchasing Agent With Reference Thereto, and Providing for the Compiling of Records in the Office of the State Purchasing Agent and Providing Punishment for the Violations of Any of the Provisions of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Property returns.

Section 1. All persons in charge of any State property, must, upon request of the State Purchasing Agent, furnish him with a sworn statement of all personal property in his possession or under his charge belonging to the State of Montana, together with an estimate of the value thereof, and must also furnish such other information in connection therewith, as the State Purchasing Agent shall require.

Duties purchasing agent.

Complete inventory.

Section 2. From the report so made to the State Purchasing Agent, he must on or before June 30th, 1923, prepare a complete inventory for each state department, office, board, commission or institution, of all personal property belonging to the State of Montana, in charge or possession of such department, office, board, commission and institution, each such inventory to show in detail the estimated value of the items embraced therein, and each State Department, office, board, commission and institution must be charged with all items of personal property and all other personal property thereafter placed at the disposal of any such State department, office, board, commission and institution, and shall be credited with all worn out, used, lost, injured or destroyed property from time to time, as may be reported to the State Purchasing Agent, and shall be held responsible for all items of personal property not accounted for.

Charge and credit to state depts.

Bids for supplies.

Section 3. The state purchasing agent in making purchase of supplies and equipment under the provisions of

HeinOnline -- 1923 168 1923

this Act, or under the laws of the state of Montana must advertise as hereinafter provided, and award contracts in the name of the State of Montana for such supplies and equipment to the lowest responsible bidder, except as hereinafter provided.

Purchasing agents power to sell state property.

Section 4. The state purchasing agent shall have exclusive power, subject to the consent and approval of the Governor, to sell, or otherwise dispose of, or to authorize the sale or other disposition of, all materials and supplies, service, equipment, or other personal property of every kind now owned by the State of Montana, but not needed or used by any state institution or by any department of the state government; and to sell all articles, produce or crops produced, manufactured, made or grown in any state institution and to collect the money for same "except such portion of such articles, produce or crops as may be used or consumed in such institution; each state institution shall keep and submit to the state purchasing agent, at least once each year or oftener if demanded, a list of such articles, produce or crops used or consumed therein and if any part thereof has theretofore been inventoried, as in this Act hereinbefore provided, then such institution shall be given credit therefor." The state purchasing agent shall remit to the state treasurer all moneys received from the sale of property belonging to the state of Montana, said moneys to be by the treasurer credited to the general fund. "True and correct lists of all articles, produce and crops sold with the names of the purchasers, their addresses and sums received therefor, shall be prepared and kept on file in the office of the state purchasing agent, which list shall at all times be subject to inspection by the public."

Report of state institution.

Monies from sale of property to general fund.

Record of sales.

Open to public.

Purchase legislative and other dept. supplies.

Section 5. Unless otherwise provided by law, the State Purchasing Agent shall have exclusive power, subject to the consent and approval of the Governor, to let to the lowest bidders and enter into contracts with the lowest bidders, for the furnishing of all supplies, stationery, paper, fuel, water, lights, and other articles required by the Legislative Assembly and all other offices, departments, boards, commissions and institutions of the State.

Bids.

Before any such contract is let, the State Purchasing Agent must advertise in such manner and for such time as in this Act provided for sealed proposals for all such supplies or services mentioned in this Section.

HeinOnline -- 1923 169 1923

Printing.

Section 6. The State Purchasing Agent shall have exclusive power, subject to the consent and approval of the Governor, to contract for all printing for any purpose used by the State of Montana in any state office, elective or appointive or by any state board, commission, bureau, state institution or department and shall supervise and attend to all public printing of the State of Montana in the manner in this Act provided, and shall prevent duplication and unnecessary printing; all forms, blanks and documents printed for distribution to the departments of the state government or state institutions shall be serially numbered and indexed by the State Purchasing Agent and sample copies of each thereof permanently retained in his office; and the State Purchasing Agent shall from time to time furnish to the public general information as to the nature, description and official numbers of such reports as are available for public distribution.

Index of forms.

Notice of reports for public distribution.

Determination of form, quantity, etc., laws, journals, etc.

Unless otherwise provided by law, the State Purchasing Agent in letting contracts as provided in this Act, for the Printing, Binding and Publishing of all Laws, Journals and Reports of the various offices, departments, boards, commissions and institutions of the State, shall have the power to determine the quantity, quality, style and grade of all such printing, binding and publishing. Provided, that all reports for any fiscal year required by law to be published, must be submitted to the Governor before November 1st, of each year, for approval, correction or modification, and when by the Governor approved, as corrected or modified, must by him be certified to the State Purchasing Agent for publication, provided, the Governor may require all such reports or any number of them, to be published in one volume, such publication to be completed on or before the tenth day of January thereafter.

Submission of reports before Nov. 1.

Duty of governor.

Volume or pamphlet form.

And provided further, any such reports so published, in one volume may also be separately published in pamphlet form, in such number as may be directed by the Governor.

Quarterly reports and requisitions.

Section 7. State Officers, commissioners of boards, or departments, superintendents of state institutions or departments shall tabulate in detail the amount of supplies on hand at the beginning of each quarter and the additional supplies needed for the ensuing quarter. The State Purchasing Agent shall make examination of the amount of supplies on hand and shall determine from such examination and from the statements so furnished

Determination of supplies necessary.

HeinOnline -- 1923 170 1923

him, as in this action provided, the additional amount of supplies necessary and shall make an itemized statement thereof, all of which Acts of said State Purchasing Agent shall be subject to approval of the Governor. As soon as the State Purchasing Agent shall determine, as in this section provided, what kind of supplies and the amount necessary for the State of Montana to purchase for its state offices, boards, commissions, departments or institutions, he shall thereupon give notice in "daily newspapers of general circulation in the State of Montana and published in different localities therein," for at least 20 days that sealed proposals will be received by the State Purchasing Department, up to a time to be mentioned therein, for furnishing supplies for such state offices, boards, commissions, departments or institutions, which notice shall also state that detailed statements of supplies to be furnished are on file at the office of the State Purchasing Department and subject to inspection, and shall also specify that at a certain time, to be therein mentioned, said proposals will be opened, and contracts awarded to the lowest responsible bidder. Each proposal shall be accompanied by sample supplies proposed to be furnished, ample in quantity, to be divided, a part thereof, in case of award, to be kept in the office at the Capitol and a part thereof, in case of award, to be sent to the place of intended delivery. The proposals shall be in writing, sealed and marked, "Proposals for furnishing supplies," and shall be addressed to the State Purchasing Agent, Helena, Montana. There shall be separate proposals and separate contracts for each class of material furnished. At the time mentioned in the said notice said proposals shall be opened, in public, and contracts awarded to the lowest responsible bidder. The department shall have the right to reject any and all bids. If all of such proposals shall be rejected, proposals shall again be invited and proceeded with in the same manner.

Securing of bids; publication of notice.

Samples to accompany proposals.

Bids in writing.

Opening of bids.

Acceptance and rejection.

With any proposal the State Purchasing Agent may require a certified check on some responsible bank, payable to the treasurer of the State of Montana, equal in amount to 5 per cent of the sum of such proposal, as a guarantee for the faithful performance of any contract awarded. In case no award is made to the party the check shall be returned to him when a contract has been duly signed and bond approved. All proposals shall include the delivery of the supplies to the departments and institutions for which they are purchased.

Certified checks, deposit of.

Bids to include delivery.

HeinOnline -- 1923 171 1923

Purchase of supplies by state institutions, etc.

The State Officers, superintendent, commissioners, departments or institutions, shall have the authority to purchase any supplies or material, except on approval of the State Purchasing Agent.

Contracts: Period of.

Section 8. No contracts shall be made for a longer period than one year and such contract shall provide for the delivery of such articles at such times and in such quantities as the Purchasing Agent may determine.

Fruits excepted.

Section 9. Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as hereinbefore provided. The State Purchasing Agent may allow, under proper rules, regulations and instructions approved by the state board of examiners, any state officer, board, commission or superintendent of state institution to purchase the fresh fruits and vegetables therefor, and make other and minor purchases for the same; an itemized account to be kept of all such purchases and furnished to the state purchasing department.

Rules by pur. agent.

Account to pur. agent.

Emergency purchases.

Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which such articles are usually bought and sold or such services engaged between individuals, but under the direction of the state purchasing agent and subject to the approval of the state board of examiners.

Impartiality in making awards.

Section 10. The State Purchasing Agent, or any officer or employee thereof, shall have no right to show any partiality or favoritism in making such awards or contracts, but shall be absolutely fair and impartial; PROVIDED, that where both the bids and quality of goods offered are the same, preference shall be given to articles of local and domestic production and manufacture, and provided, further that where both the bids and the quality of goods offered are the same, preference shall be given to resident bidders of the State of Montana over non-resident bidders.

Preference given when.

Record of bids.

Section 11. The State Purchasing Department shall have recorded in a book kept for that purpose, a true and faithful abstract of all bids made for furnishing supplies and equipment for the State of Montana, giving the name of the party bidding, the terms of the offer, the sum to be paid, and shall keep on file and preserve all such bids until the end of the contract term to which they relate. Each bidder shall have the right to be

Bidder may be present when bids opened.

HeinOnline -- 1923 172 1923

present, either in person or by agent, when the bids are opened and shall have the right to examine and inspect all bids. All purchases, advertisements and contracts for supplies for any purpose authorized by law shall be made by the State Purchasing Department in the name of the State of Montana. The records shall be open at all times for the inspection of those who may be interested in such contracts made or to be made with the State of Montana.

Contracts, etc., in name of state of Montana.

Records public.

Section 12. No contract or order or any interest therein shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract so transferred, at the option of the State. Collusion or secret agreements between bidders for the purpose of securing any advantage to the bidders as against the State of Montana in the awarding of contracts is hereby prohibited, and the State Purchasing Agent and State Board of Examiners if they shall find sufficient evidence after any contract has been let that said contract was obtained by any bidder or bidders, by reason of collusive or secret agreement among the bidders to the disadvantage of the State of Montana, shall have the right to declare any such contract null and void.

Transfer of contract prohibited.

Collusion or secret agreements.

All rights of action, however, for any breach of such contract by the contracting parties are reserved to the State. No member of the legislature, nor any elective or appointive state officer, nor any deputy or employee thereof, nor superintendent of any state institution or any employee thereof, nor any person in the employ of the State of Montana in any capacity whatsoever, shall directly, himself, or by any other person in trust for him or for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract or agreement made or entered into by or on behalf of the State of Montana under the provisions of this Act, and every person who violates the provisions of this section shall be deemed guilty of a misdemeanor and shall be fined not less than $100 nor to exceed the sum of $5,000.

Rights of action.

State officers, etc., cannot enter agreement.

Penalty.

Section 13. The warehouses, supplies, furnishings and property of all kinds used in and about the business of the State of Montana, shall be subject at all times to the inspection and examination of the State Purchasing Department and any officer or employee of any office, board, commission or department.

Warehouses etc., subject to inspection by purchasing agent.

HeinOnline -- 1923 173 1923

Section 14. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 15. This Act shall take effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 67.

An Act to Amend Sections 2398, 2399, 2400, 2401, 2402, 2403, 2404, and 2405 of the Revised Codes of Montana of 1921, and Requiring Every Person, Firm, Co-partnership, Association, Joint-Stock Company, Syndicate and Corporation Engaged in or Carrying on the Business of Producing Within This State Petroleum or Other Mineral or Crude Oil, or Engaged in or Carrying on the Business of Owning, Controlling, Managing, Leasing or Operating Within This State Any Well or Wells From Which Petroleum or Other Mineral or Crude Oil Is Produced, to Pay to the State Treasurer for Engaging in and Carrying on Such Business, Certain License Fees for the Exclusive Use and Benefit of the State of Montana; Fixing the Amount of Such License Fees; Prescribing a Method for the Assessment and Collection Thereof; and Prescribing Penalties for Violations of the Provisions of This Act; and Repealing Section 2406 of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Oil license tax.

Section 1. Section 2398 of the Revised Codes is amended to read as follows:

"Section 2398. Oil License Tax. Every person engaging in or carrying on the business of producing, within this state, petroleum, or other mineral or crude oil, or engaging in or carrying on the business of owning, controlling, managing, leasing or operating within this state any well or wells from which any merchantable or marketable petroleum or other mineral or crude oil is extracted or produced, sufficient in quantity to justify the marketing of the same, must, for the year 1923, and each year thereafter, when engaged in or carrying on any such business in this state, pay to the state treasurer, for the exclusive use and benefit of the State of Montana, a license tax for engaging in and carrying on such business in an amount equal to two per centum of the total gross value of all petroleum and other mineral or crude oil produced by such person within this state dur-

Amount of tax.

HeinOnline -- 1923 174 1923

ing such year; but in determining the amount of such tax there shall be excluded from consideration all petroleum, or other crude or mineral oil produced and used by such person during such year in connection with his operations in prospecting for, developing and producing such petroleum, crude or mineral oil; provided, however, that nothing in this act shall be construed as requiring laborers or employees, hired or employed by any person, to drill any oil well, or to work in or about any oil well, or prospect or explore for, or do any work for the purpose of developing any petroleum or other mineral or crude oil to pay such license tax, nor shall any work be done, or the drilling of any well or wells, for the purpose of prospecting or exploring for petroleum or other mineral or crude oils, or for the purpose of developing same, be deemed to be engaging in or carrying on of any such business; provided, further, that in the doing of any such work, or in the drilling of any oil well, or in such prospecting, exploring or development work, any merchantable or marketable petroleum or other mineral or crude oil in excess of the quantity required by such person for carrying on such operation shall be produced sufficient in quantity to justify the marketing of the same, than such work, drilling, prospecting, exploring or development work shall be deemed to be the engaging in and carrying on of such business within this state within the meaning of this section."

Determination of tax.

Construction of Act to exclude mere development.

Excess quantity taxable.

Section 2. Section 2399 of the Revised Codes of Montana, 1921, is amended to read as follows:

"Section 2399. Such license tax shall be paid in semi-annual instalments for the semi-annual periods ending respectively June 30th and December 31st of each year, beginning with the semi-annual period ending June 30, 1923, and the amount of the license tax for each semi-annual period shall be paid to the State Treasurer within thirty (30) days after the end of each semi-annual period. On January 31st of each year, the State Treasurer shall transfer to the Common School Interest and Income Fund of the State a sum equal to twenty-five per cent (25%) of the total amount of such license taxes collected during the preceding twelve months, the same to be apportioned in the same way as other monies in the said fund and at the same time: the State Treasurer shall also apportion a sum equal to twenty-five per cent (25%) of such license taxes collected during such preceding twelve months to the county and district high schools

Payment of tax.

Distribution.

HeinOnline -- 1923 175 1923

of the state on the basis of the aggregate number of days' attendance during the preceding school year in each of said high schools respectively; and fifty per cent (50%) of such taxes shall be credited to the General Fund of the state when received by the State Treasurer."

"Section 2a. Section 2406 of the Revised Codes of Montana of 1921 is hereby repealed.

Section 3. Section 2400 of the Revised Codes of 1921 is amended to read as follows:

Determination of gross value.

"Section 2400. Gross Value of Product—How Determined. The total gross value of all petroleum, and other mineral or crude oil produced each year shall be determined by taking the total number of barrels thereof produced or for pumping said petroleum, or other mineral value at the mouth of the well during the month the same is produced, as determined by the State Board of Equalization; provided, however, that in computing the total number of barrels of petroleum, and other mineral or crude oil produced, there shall be deducted therefrom so much thereof as is used by such person in connection with the operation of the well from which said oil is produced or for pumping said petroleum, or other mineral or crude oil from the said well to a tank or pipe line."

Deduction.

Section 4. Section 2401 of the Revised Codes of 1921 is amended to read as follows:

Reports.

"Section 2401. Producers to File Reports. Each and every person engaged in such business in the State of Montana at the date when this act becomes effective, must, not later than the thirtieth day of April, 1923, and every person who shall engage in such business at any time after the date when this act becomes effective, must, immediately upon engaging in such business, file with the State Board of Equalization, a certificate and statement, on forms prescribed by the State Board of Equalization, which shall contain the name under which such person is engaging in and carrying on such business in this state, giving the place or places of business and location of the well or wells owned, leased, controlled or operated by such person; the name and address of the managing agent in this state, if an association, corporation, joint-stock company, or syndicate, or if a firm or co-partnership, the names and addresses of the persons composing the same; if an association, joint-stock company, corporation or syndicate, under the laws of what state organized, its principal place of business, and the names and addresses of its principal officers; and

HeinOnline -- 1923 176 1923

such other information as the Board may deem necessary."

Section 5. Section 2402 of the Revised Codes of 1921 is amended to read as follows:

"Section 2402. Record of Product. Every such person shall keep a record in such form as the State Board of Equalization may require, of all petroleum and other mineral or crude oil extracted or produced by such person in this state, and such records shall at all times during the business hours of the day be subject to inspection by the State Board of Equalization, its members, agents, or employes. It shall be the duty of railroad companies, pipe line and transportation companies carrying crude or mineral oil, to furnish to the State Board of Equalization, whenever requested so to do, all data relative to the shipment of said products, that may be required to properly enforce the provisions of this act. The failure of any railroad company, pipe line, and transportation companies to comply with the provisions of this section shall make such companies liable to a penalty of One hundred ($100.00) Dollars for each day it shall fail to furnish such statement."

Record of product.

Carriers to furnish data of shipments.

Penalty.

Section 6. Section 2403 of the Revised Codes is amended to read as follows:

"Section 2403. Statement of Quarterly Product—Verification. Each and every person must, within thirty days after the quarter ending March 31, 1923, and within thirty days after the end of each following quarter, make out, in duplicate, on forms prescribed by the State Board of Equalization, and deliver to the State Treasurer, a statement showing the total number of barrels of merchantable or marketable petroleum, and other mineral or crude oil produced or extracted by such person in the state of Montana during each month of such quarter and during the whole quarter, the average value thereof during each month and the total value thereof for the whole quarter, together with the total amount due to the state as license taxes for such quarter; and must, within such thirty days, and at the same time such statement is delivered to the State Treasurer, pay to the State Treasurer the amount of the license taxes shown by such statement to be due to the State of Montana for the quarter for which such statement is made. Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer, or managing agent

Quarterly reports.

Contents.

Payment of taxes.

Officers who may sign report.

HeinOnline -- 1923 177 1923

Where several wells operated.

Duty of state treasurer.

Form of record book.

Transfer of records to board of equalization.

Duty of board to assess tax.

Collection of shortage in tax.

Refund of overpayment.

in this state of the association, corporation, joint-stock company or syndicate making the same. Any such person engaged in carrying on such business at more than one place in this State, or owning, leasing, controlling, or operating more than one oil well in this state, may include all thereof in one statement. The state treasurer shall receive and file all such statements and collect and receive from such person making and filing a statement with him the amount of tax payable by such person, if any, as the same shall appear from the face of the statement. The State Treasurer shall endorse on each statement as soon as the same is received by him, the date when so received, the name and postoffice address of the person from whom received; and the amount of tax, if any, paid by such person; and he must number such statement consecutively, beginning with number one (1) for each year followed by the year. The State Treasurer shall keep a book in such form as shall be approved by the State Board of Equalization, in which he shall enter each statement filed with him in the order in which received and filed, the number thereof, date of filing, name of person making the return, and the amount of tax, if any, paid by such person, which book shall be designated "State Treasurer's record of oil production license tax." The State Treasurer shall within ten days after the end of each month deliver over to the State Board of Equalization all statements filed with him and not already delivered to said Board, and such statements shall then be filed in the office of, and become a part of the records of the State Board of Equalization. It shall be the duty of the State Board of Equalization to examine each of such statements and compute the taxes thereon, and the amount so computed by the Board shall be the taxes imposed, assessed against and payable by the taxpayer making the statement for the quarter for which the statement is filed. If the tax found to be due shall be greater than the amount paid, the excess shall be paid by the taxpayer to the State Board of Equalization within ten days after written notice of the amount of the deficiency shall be mailed by the Board of Equalization to such taxpayer. Provided, that if the tax imposed shall be less than the amount paid, the difference must be refunded to the person making such payment."

Section 7. Section 2404 of the Revised Codes is amended to read as follows:

HeinOnline -- 1923 178 1923

"Section 2404. Unlawful—Failure to Make Statement. It shall be unlawful for any such person to fail, neglect or refuse to file any statement or certificate required by this act in the manner or within the time herein required, or to make such statement false in any particular." Failure to make reports.

Section 8. Section 2405 of the Revised Codes shall be amended to read as follows:

"Section 2405. Procedure to Compute and Collect Tax in Absence of Statement. If any such person shall fail, neglect or refuse to file any statement required by Section 2403 of this code, within the time therein required, the State Board of Equalization shall, immediately after such time has expired, proceed to inform itself, as best it may, regarding the number of barrels of petroleum and other mineral or crude oil extracted and produced by such person in this state during such quarter, and during each month thereof, and the average value thereof during each such month, and shall determine and fix the amount of the license taxes due to the state from such person for such quarter and shall make out a statement, in duplicate, showing the same, and shall add to the amount of such license taxes a penalty of twenty-five per cent thereof, and deliver one of such statements to the State Treasurer, who shall proceed to collect the amount of such license taxes, with the penalty added thereto and interest on the whole thereof at the rate of twelve per cent, per annum from the date of the making of such statement by the State Board of Equalization until paid. Upon request of the State Treasurer, it shall be the duty of the Attorney General to commence and prosecute to final determination in any court of competent jurisdiction, an action at law to collect the same." Procedure when no report filed. Method of determination. Penalty added. Interest added. Duty of att'y-general.

Section 9. This act shall be in force and effect after its passage and approval.

Approved March 5, 1923.

CHAPTER 68.

An Act to Amend Sections 1042, 1043, 1044, 1045, 1047 and 1048 of the Revised Codes of Montana, 1921, Relating to the Creation of a Rural School District.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Chapter 80, Section 1042 of the Revised Codes of Montana 1921 be, and the same is hereby amended to read as follows:

HeinOnline -- 1923 179 1923

County unit system.

"Section 1042. Any county in the state may adopt the county unit system for rural schools provided in the succeeding sections of this Act, on the conditions hereinafter prescribed as follows:

Petition.

Whenever, between the first day of December of any year and the first day of April of the following year, twenty per cent of the registered electors residing in third class school districts of any county shall petition the board of county commissioners requesting that the county unit system for rural schools be established in such county, the county commissioners shall call an election to be held in all third class districts of the county, within ninety days, and in any event not later than the tenth day of May following. The county commissioners shall appoint precinct judges and clerks, and the election shall be conducted in accordance with the general election law of the state, and the judges and clerks of such election shall serve without compensation. The place of election in each precinct shall be the established polling place in each precinct. All registered electors residing in the proposed rural school district and whose names appear upon the registration books of the county upon the day of calling such election, shall be entitled to vote upon such election. The polling books of any precinct shall not contain the names of any registered electors residing in any district of the first and second class. The county clerk shall give twenty days' notice of such election by publication in the official paper of the county that the question of adopting the county unit system for rural schools will be submitted to the qualified electors in all third class districts of the county at the time designated. It shall not be necessary to give notice of closing or registration books of the county in elections held pursuant to the provisions of this Act. But the registration books of the county for such election shall automatically close upon the day of calling such election. The qualified electors of the proposed rural school district shall vote by ballot for or against the adoption of the county unit system for rural schools. An elector desiring to vote for such adoption shall do so by marking (X) on his ballot before the phrase, "For the County Unit"; an elector desiring to vote against such adoption shall do so by marking (X) on his ballot before the phrase, "Against the County Unit."

Duty county comm'rs to call election.

Conduct of election.

Judges receive no compensation.

Polling places.

Who may vote.

Notice of election.

Closing registration records.

Ballots.

Canvass of returns.

After the election the ballots shall be counted and the votes canvassed and returns shall be made to the county

HeinOnline -- 1923 180 1923

clerk in the manner prescribed in the general election laws. If a majority of the votes cast at the election is in favor of the county unit, the board of county commissioners shall make and enter an order creating such rural school district and establish the boundaries of each subdivision and this Act shall become effective in so far as the county is concerned. Boundaries of subdivisions may be altered by county commissioners at a later date in case county division or other cause may unduly reduce or increase the size of a subdivision or subdivisions.

Duty comm'rs where vote is favorable.

Boundaries.

If a majority of the votes cast at such election is against organization of the rural school district, another election upon the question of organizing a rural school district cannot be held until after the expiration of two years.

Where vote is unfavorable.

As soon as the board of county commissioners has for the first time established the boundaries of the subdivisions as hereinbefore provided, the said board of county commissioners shall thereupon appoint one elector from among the residents of each of the five subdivisions of the rural school district to constitute a board of trustees for the rural school district of the county. Of these five trustees so appointed two shall serve until the first regular school election after their appointment, two until the second regular school election after their appointment, and one until the third regular election after his appointment, the terms of trustees so appointed to be determined by lot.

Appointment board of trustees.

Term.

Section 2. That Section 1043 of Revised Codes of Montana 1921 be and the same is hereby amended to read as follows:

1043. 1. These trustees shall be electors of the subdivision of the rural school district of the county in which they are to serve. Except as hereinbefore provided such trustees shall be elected at the annual school election and shall serve for three years and until their successors are elected or appointed and qualify.

Who shall be trustee.

Election of.

2. On or before fifteen days prior to the annual school election, there may be filed with the secretary of the board of trustees of the rural school district, petitions signed by at least twenty-five qualified electors of each subdivision of the rural school district in which the term of a trustee is about to expire, nominating candidates for trustees to be voted for at the ensuing election, and if any trustees are to be elected to complete unexpired terms, as hereinafter provided, such petition shall state

Nominating petition.

Petition shall state what.

HeinOnline -- 1923 181 1923

whether the persons nominated therein are nominated for such unexpired terms or for full terms of three years.

Duty of board of trustees.

The board of trustees shall cause the names of all candidates for trustees of the rural school district to be printed and sent to the clerk in each sub-district of the part in which a trustee is to be elected, to be posted at each polling place at least five days preceding the election.

Election.

The election of school trustees shall be held and conducted under the supervision of the trustees of the local sub-district, who shall not less than fifteen days before the annual election post notices in three public places in their sub-districts, which notices must specify the time and place of election and hours during which the polls will be open.

Posting of notices.

The local trustees must appoint, by an order entered in their records, three qualified electors of said sub-districts to act as judges at said election, and the local clerk shall notify them by mail of their appointment.

Judges of election.

If the judges are not present at the time of opening the polls, the electors present may appoint judges, and the judges so appointed shall designate one of their number to act as clerk.

Absence of judges.

The voting must be by ballot without reference to the general election laws in regard to nominations, forms of ballot, or manner of voting, and the polls shall be open for such time as the board of trustees may order; Provided, that such polls must be open between two P. M. and six P. M.

Voting by ballot.

Opening of polls.

It shall be the duty of the judges of the election to canvass the votes cast in their respective sub-districts for trustees, and make returns of the same to the county clerk in the manner and form as may be prescribed by the general election law of the state in so far as the same may be applicable to school elections.

Canvass and returns.

The returns shall be canvassed and the result declared by the county commissioners and certificates of election issued by the county clerk in the same manner as may be prescribed by the general election laws of the state in so far as the same may be applicable thereto; Provided that in the election of said board of trustees the votes cast in each of the five subdivisions of the rural school district shall be canvassed separately and the candidates receiving the largest number of votes in any one subdivision shall be elected as the trustee for such subdivision: provided, further, that no one shall be eligible as trustee who is not at the time of his election or appointment a bona fide resident and elector of the subdivision of the rural school district for which he is elected.

Election certificates.

Separate subdivision canvass.

Who eligible as trustee.

HeinOnline -- 1923 182 1923

Oath of trustees.

3. Persons elected or appointed as trustees shall qualify by taking an oath to perform their duties according to law. Their oaths may be administered by the county superintendent or any other officer authorized by law to administer oaths, and must be filed with the clerk of the board of trustees within fifteen days after the election or appointment. The board of county commissioners shall appoint trustees to fill vacancies in the board of rural school district trustees: provided, that such appointment is confirmed by the majority of the remaining members of such board. Trustees so appointed shall serve till the next regular school election, at which election successors shall be elected to serve for the unexpired balance of the term if any."

Filed where.

Vacancies.

Term of appointee vacancy.

Section 3. That Section 1044 of Revised Codes of Montana 1921 be and the same is hereby amended to read as follows:

Powers of board of trustees.

"1. The board of trustees of every rural school district shall have only the powers and shall perform only the duties enumerated in this Act. The board of trustees of each sub-district of the rural school district shall have all the powers and perform all the duties imposed upon trustees of school districts according to the provisions of Chapter 76 of the Session Laws of the Thirteenth Legislative Assembly and Acts amendatory thereof and supplementary thereto, except, as modified by the terms of this Act.

Certification of expense budget.

2. The board of trustees of each sub-district of the rural school district shall not later than the last day of May prepare and certify to the board of trustees of the rural school district, a budget containing an estimate of all of the different items of expenditures for operation and maintenance to be incurred by such sub-districts for the ensuing school year. Such budget shall explain in detail the several items of estimated expenditures, together with an explanation of the necessity therefor. Such budget shall also be accompanied by a full and complete report of the school facilities of the sub-district and of the educational opportunities afforded to each child in such sub-district. Any board of trustees of a sub-district making expenditures in excess of their budget shall have deducted from their budget for the ensuing year the amount of such excess expenditure, unless the county board of trustees authorized such expenditure from its emergency fund.

Contents of budget.

Expenses in excess of budget.

HeinOnline -- 1923 183 1923

Levy of special tax when.

3. For any extraordinary expenditure or expenditures for any purpose other than operation and maintenance to be incurred by a sub-district, not included in the budget for such sub-district, as adopted by the board of trustees of the rural school district, the board of trustees of such sub-district may cause to be levied upon the property in the sub-district a special tax pursuant to the provisions of Section 1203 of the Revised Codes of Montana 1921.

Examination of budget by board.

4. The board of trustees of the rural school district shall on the first Monday in June, examine the budgets certified to it by the trustees of the several sub-districts, and from such budgets shall prepare a complete budget for the rural school district, which shall provide for the furnishing of reasonable educational facilities to every child in the rural school district, including the payment of board or rent or both, and transportation of children from isolated sections, in cases where the same is more expedient than maintaining a school in such isolated sections; all interest on all outstanding bonds issued by such rural district or the payment of which has been assumed by such district, and so much of the principal of any such bonds as it to become due during the ensuing school year and also including any other reasonable item of expenditure not herein enumerated, and necessary for carrying out the provisions of this Act. Such budget shall contain the detailed estimated expenditures of each sub-district. Patrons shall have the right of appeal to the board of trustees of the rural school district in case provision of educational opportunities of children have been neglected or overlooked by the trustees of the sub-district, and the decision of the trustees of the rural school district shall be final.

Provisions of budget.

Patrons' right of appeal.

Decision of board final.

Additional levy of ½ mill.

5. The board of trustees of every rural school district is hereby authorized to include in the budget for any year as a separate item an amount not in excess of a one-half mill levy to provide for the following general purposes effecting the entire rural school district or for any of them: the supervision of the health of students, employment of a truant officer, provision for new students in any local district who may have come into said district after the adoption of the budget for said district and not provided for in said budget. They shall also be authorized to provide a levy not in excess of one mill in any one year for establishing a building fund for the erection of portable or other school buildings, barns,

Purpose of levy.

1 mill levy for what purpose.

HeinOnline -- 1923 184 1923

dormitories or teacherages when the same are deemed necessary by the board of trustees of the rural school district and to make provision of necessary building facilities for isolated and special cases. Whenever such extra levies are made the board of trustees of the rural school district shall specify the purposes for which same are to be used and make the expenditures for said purposes as set out in said budget.

Extra levies.

6. The board of trustees of the rural school district shall on or before the second Monday in June in each year certify to the board of county commissioners the total amount of money required in excess of the state and county apportionments to be raised by taxation for the rural school district pursuant to the budget adopted by the board, and the board of county commissioners shall cause to be levied at the time of the levy of taxes for state and county purposes, a sufficient levy upon all of the taxable property within the rural school district to raise the amount of money so certified by the board of trustees of the rural school district, after allowing a deduction of ten per cent on account of delinquencies. The board of trustees of the rural school district shall at its regular meeting held on the second Thursday in December, apportion to the several sub-districts their proportionate part of the taxes then collected, such proportionate part to be determined in accordance with the budget as above mentioned. They may at this meeting make such adjustments in the budgets as may seem necessary because of new conditions arising since the budgets were allowed.

Certification of money required in excess of apportionments.

County com'rs to cause sufficient levy.

10% deduction.

Apportionment of taxes.

Budget adjustments.

7. Any warrant issued by any sub-district board, except for salaries, shall be countersigned by the secretary of the board of trustees of the rural school district. Said secretary is authorized to countersign only such warrants as are drawn in payment of expenses approved by the board of trustees of the rural school district in the budget of the sub-district. Hereafter all warrants issuel by sub-district shall carry the notation "This warrant not valid, except for salaries, unless countersigned by secretary of board of trustees of the rural school district."

Countersigning of sub-dist. warrants.

Notations on warrants.

8. The board of trustees of the rural school district is authorized to close schools with an enrollment of fewer than five pupils, if in the judgment of said board, such children can be cared for more economically and in a satisfactory maner in another school. Said board

Closing of rural school.

HeinOnline -- 1923 185 1923

Transfer of textbooks.

shall also be empowered to place textbooks and equipment of schools closed in other communities where such materials are needed, provided that such textbooks and equipment shall be replaced or new materials shall be provided in their stead at such time as it may become desirable to reopen said school.

Trustees may issue coupon bonds.

9. The board of trustees of any rural school district is hereby vested with the power and authority to issue and negotiate on the credit of the rural school district, coupon bonds for any one or more of the purposes authorized in Section 1224 of the Revised Codes of Montana 1921. The question of such bond issues shall be submitted to the electors of the rural school district in the same manner provided by said section. The clerk of the board of trustees of the rural school district upon the passing of the resolution by the board submitting to the electors of the rural school district the question of the issuance of bonds, shall furnish the clerk of each sub-district with three copies of the notice of election of such bond issue. The clerk of each sub-district shall not less than fifteen days before the date specified in such notices for such election, post notices in three public places in said district, one which shall be at the place of election designated in such notice. The ballots shall be substantially in the form provided in Section 1225 of the Revised Codes of Montana 1921 and the votes shall be canvassed by the trustees in each sub-district who shall certify the result of the election in each sub-district to the secretary of the board of trustees of the rural school district. If a majority of the votes cast in such rural school district are in favor of the issuance of bonds the board of trustees shall thereupon proceed to issue and sell the bonds in accordance with the provisions of Sections 1225 and 1226 of the Revised Codes of Montana 1921 and all of the provisions of sections 1227 to 1233, inclusive, of the Revised Codes of Montana, 1921, shall be applicable thereto and shall govern the same. The county superintendent of schools shall be ex-officio secretary of the board, and it shall be his duty to enforce the rules, regulations and orders of the board, but he shall not be entitled to vote.

Election.

Clerk of board to furnish election notice.

Posting of notices by sub-dist.

Ballots, canvass and returns.

If election favorable.

County supt. ex-officio secy. may not vote.

Liability of school district.

10. School District Liable on Bonds.—The faith of the rural school district is solemnly pledged for the payment of the interest and the redemption of the principal of the bonds which shall be issued under the provisions of this chapter. And for the purpose of en-

HeinOnline -- 1923 186 1923

f·:cing the provisions of this chapter, the rural school district shall be a body corporate, which may sue and be sued by or in the name of the board of school trustees of such district.

Salary and expense schedule.

11. The board of trustees of the rural school district shall be authorized to establish a salary schedule based upon teaching experience, training and certification of teachers and to determine transportation rates and allowances for board and house rent."

Section 4. That section 1045 of the Revised Codes of Montana 1921 be, and the same is hereby amended to read as follows:

Sinking funds on hand.

"Section 1045. 1. All sinking funds on hand as a surplus or credit to the various third class districts in any county prior to and on July 1, of the year in which the provisions of this Act shall be accepted, in such county, as hereinabove provided, shall become a part of the corresponding sinking funds of the rural school district of the county. All moneys to credit of general or special funds of sub-districts prior to and on July 1 of the year in which the provisions of this Act shall be accepted shall remain to credit of such special funds of sub-districts and may be spent by sub-district trustees only in accordance with the provisions of the budget for the ensuing year except for meeting contracts already entered into when the county unit plan was adopted.

Monies remaining to credit of special funds.

Payment of indebtedness.

2. All the existing indebtedness of the various third class districts in any county prior to and on July 1, of such year, whether for maintenance or bonded indebtedness or otherwise, shall become the indebtedness of, and shall be assumed and paid by the rural school district of that county, such payments being made from the corresponding respective and proper funds. Said board of trustees in the rural school district is authorized and empowered to issue bonds of the rural school district to take up and cancel such bonded indebtedness and all the provisions of section 1224 to 1233 inclusive of the Revised Codes of Montana, 1921, shall apply thereto and govern the same; Provided, however, that such board of trustees shall have power and authority to issue and dispose of such bonds for such purpose without being required to submit the question of so doing to any election."

Bond issue to take up bonded debts.

No election required.

Section 5. That Section 1047 of Revised Codes of Montana, 1921 be, and the same is hereby amended to read as follows:

HeinOnline -- 1923 187 1923

Annual meeting board of trustees.

"The regular annual meeting of the board of trustees of the rural school district shall be held on the first Thursday in July. At this meeting new members elected shall take office; a president shall be elected for the ensuing year by the board, from among its own membership; and the executive officers of the board shall make their annual reports. Another regular meeting shall be held on the second Thursday in December and special meetings may be called by the president, or by three other members of the board. Each member of the board of trustees of the rural school district shall be paid from the general fund of the county his necessary traveling expenses in attending regular meetings, but not to exceed four special meetings, and an honorarium of seventy-five dollars per year. Failure to attend two regular meetings in succession, unless excused on account of sickness shall work a forfeiture of the office."

Officers elected.

Other meetings.

Compensation and expenses of board.

Forfeiture of office.

Section 6. That Section 1048 of Revised Codes of Montana 1921 be, and the same is hereby amended to read as follows:

Dissolution of school dist.

"A rural school district organized under the provisions of this Act may be dissolved after the expiration of four years from the date of its organization, in the following manner, to-wit:

Petition for dissolution.

Whenever, between the first day of January and the first day of March in any year twenty per cent of registered electors in a rural school district shall petition the board of trustees of the rural school district requesting the dissolution of such school district, the board of trustees of the rural school district shall submit such petitions to the county clerk, and the county commissioners shall call an election which shall be held in all third class districts of the county and conducted in the manner prescribed for the adoption of the county unit system as set forth in Section 1 of this Act. If a majority of votes cast at such election shall be in favor of the dissolution of the rural school district, the board of county commissioners shall make an order to that effect and on and after July first the rural school district shall be dissolved and the several sub-districts shall thereupon become school districts of the third class.

Election.

If vote favorable.

Failure of vote.

If the election for the dissolution of such school district should fail to carry, another election upon the question of dissolution of such school district may not be held until after the expiration of two years.

Second election.

HeinOnline -- 1923 188 1923

Distribution of funds and apportionment of indebtedness.

The board of county commissioners shall distribute funds of the rural school district and apportion the indebtedness of the rural school district in the following manner. Each school district (formerly a sub-district) shall thereupon become the owner of all the property of the rural school district located within its boundaries. The county commissioners shall apportion to each school district that portion of the funds of the rural school district other than sinking funds, which is in proportion to the number of school census children within the school district. The county commissioners of the county shall continue to levy the taxes upon all the property located within the territory which formerly constituted the rural school district, until the interest and the principal of all bonds issued by the rural school district shall have been paid in full.

Continuation of tax levy.

Section 7. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 8. This Act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 69.

An Act to Amend and Re-enact Section 1275 of the Revised Codes of Montana, 1921, Relating to County High Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1275 of the Revised Codes of Montana, 1921, be and the same is hereby amended so as to read as follows:

Trustees to certify rate of tax required.

"Section 1275. At the regular April meeting, or at some subsequent meeting, called for such purpose, said trustees shall make an estimate of the amount of funds needed for building purposes, for payment of teachers' wages, and for payment of contingent expenses, and they shall present to the board of County Commissioners a certified estimate of the rate of tax required to raise the amount desired for such purposes, and the board of County Commissioners must levy such tax as other county taxes are levied. But in no case shall the tax for such purposes exceed in one year the amount of six mills on the dollar on the taxable property of the County. If said tax exceeds five mills, the proceeds of five mills shall be apportioned as heretofore provided by law, and the

Levy of tax.

Maximum.

Apportionment.

HeinOnline -- 1923 189 1923

balance of said tax shall be apportioned to the County High School alone."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 70.

An Act to Amend Section 1010 of the Revised Codes of Montana 1921, Relating to Transportation of Pupils.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 1010 of The Revised Codes of Montana 1921, relating to transportation of pupils be, and the same is hereby amended to read as follows:

Transfer and transportation of pupils.

1010. TRANSPORTATION OF PUPILS. That the trustees of any school district in the State of Montana, when they shall deem it for the best interest of all pupils residing in such district, may close their schools, and send pupils of the district to another district and for such purpose are hereby empowered to expend any moneys belonging to their district for the purpose of paying for the transportation of pupils from their district to such other district or districts and for the purpose of paying their tuition. Whenever the trustees of any school district in the State of Montana deem it for the best interest of such district and the pupils residing therein, they may expend any moneys belonging to their districts for the purpose of paying for the transportation of pupils from their homes to the public school or schools maintained in such district. When they deem it for the best interest of such district and the pupils residing therein, that any of such pupils should be sent to a school in their own or some other district, they may expend any moneys belonging to their district for the purpose of either paying for the transportation of such pupils from their homes to the public school or schools of such district or for their board while actually attending such schools or for rent; provided that the county superintendent of schools and county commissioners shall determine before any contracts are entered upon

Payment of transportation.

Duty county supt. of schools.

HeinOnline -- 1923 190 1923

whether such provision of board, rent, transportation or tuition is justified by the circumstances and also what is a reasonable charge for board, rent, transportation or tuition in every case where such measures have been adopted. If in the judgment of the county superintendent and county commissioners there is any evidence of fraud in securing an allowance for board, transportation, house rent or tuition by reason of the applicant's having purposely changed his residence or otherwise having contrived to secure assistance, no district funds shall be allowed for any of the purposes above enumerated.

Evidence of fraud.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 71.

An Act Relating to the Collection of Taxes and Assessments Levied for Irrigation District and Drainage District Purposes, and Requiring County Treasurers to Collect, Receive and Receipt for Such Irrigation District and Drainage District Taxes and Assessments at the Same Time and Upon the Same Receipt as Taxes Levied Upon Real Property for County Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It shall be the duty of the County Treasurer of each county in which any irrigation or drainage district is located, in whole or in part, to collect and receipt for all taxes and assessments, levied by any such district, in the same manner and at the same time, and on the same receipt, as is required in the collection of taxes upon real estate for county purposes. Such county treasurer shall not collect or receive or receipt for any taxes or assessments levied for county purposes upon real estate situated wholly or in part within any irrigation or drainage district upon which an assessment for the purposes of such irrigation or drainage district has been levied, unless the said assessment levied for such irrigation or drainage district purposes be paid at the same time.

Duty of County Treasurer in collection and receipt of taxes.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

HeinOnline -- 1923 191 1923

CHAPTER 72.

An Act to Be Hereafter Named and Cited as the Old Age Pension Act, Designating the Boards of County Commissioners of the Respective Counties of the State of Montana as the Old Age Pension Commission for Their Several Counties, Prescribing Their Duties as Such and Giving to Said Old Age Pension Commission Power to Make Such Rules and Regulations as Shall be Necessary to Carry out the Provisions of This Act, Providing Certain Persons Over the Age of Sixty Years May be Granted Old Age Pensions, Describing Their Qualifications Therefor as to Residence, Character and Property; Providing for the Re-payment to the Several Counties of all Money Paid in Old Age Pensions under Certain Conditions; Providing the Requirements to be made by an Applicant Before the Old Age Pension May be Collected; Providing for Old Age Pension Certificates and Renewal Thereof; Providing for Payment of Old Age Pensions; Providing that Old Age Pensions Shall not be Subject to Assignment, Sale, Attachment or Execution; Providing for Cancellation of Old Age Pension Certificates Under Certain Conditions; Providing Penalties for Obtaining or Aiding and Abetting in Obtaining Old Age Pensions Through False Representation or Fraud; Providing for the Disqualification of Applicants under Certain Conditions; Providing that Old Age Pensions are to be Paid From the Poor Fund of the Various Counties; and Providing for the Reports of Old Age Pension Commissions to the State Auditor; and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Old age Pension commission.

Section 1. There shall be established in each county of the State of Montana a County Old Age Pension Board hereinafter called the OLD AGE PENSION COMMISSION, and the Boards of County Commissioners of the respective counties of the State of Montana are hereby designated as the Old Age Pension Commissions of their respective counties and to serve as such without any additional compensation.

County Com'rs constitute.

No compensation.

Duties of com'n.

Section 2. The Old Age Pension Commission shall perform all the duties imposed upon it by this act and shall have authority to make such rules and regulations consistent with the provisions hereof as are necessary to carry out the provisions of this act. The Old Age Pen-

HeinOnline -- 1923 192 1923

sion Commission shall meet at such times and places as shall be fixed by its rules. Meetings.

Section 3. Every person (man or woman, married or single) shall, in the discretion of the Old Age Pension Commission while residing in the State of Montana, be entitled to a pension in old age subject to the restrictions and qualifications hereinafter noted. Who entitled to pension.

Section 4. The amount of said pension shall be fixed by the Old Age Pension Commission with due regard to the conditions in each case; but in no case shall it exceed twenty-five Dollars ($25.00) per month. Amount of pension.

Section 5. An Old Age Pension may be granted only to an applicant who, Who entitled to benefits.

(a) Has attained the age of seventy years or upwards. Age.

(b) Has been a citizen of the United States for at least fifteen (15) years before making application for a pension. Period of citizenship.

(c) Resides in the State of Montana and has so resided continuously therein for not less than fifteen (15) years immediately preceding the date of the application for a pension, provided, that continuous residence in the State shall not be deemed to have been interrupted by occasional absence therefrom where the total period of such absence does not exceed three years; or by absence from the State while in the employ or service of the State or of the United States. And provided further that a person who has resided in the State of Montana twenty-five (25) years at least five (5) of which have been immediately preceding the date of the application shall be deemed qualified in respect to residence. Residence in Montana.

(d) That during the period of ten years preceding such date of application he has not been imprisoned for any offense punishable by imprisonment in the State Penitentiary. Imprisonment in state prison.

(e) That the claimant, if a husband, has not during the period of fifteen years immediately preceding such date of application for a pension, for a period of six months or upwards, deserted his wife or without just cause failed to provide for her with adequate means of maintenance or neglected to maintain and provide for such of his children as were under the age of fifteen years; or if a wife, deserted her husband or such of her children as were under age without cause. Desertion of wife or husband.

(f) That he has not been, within one year preceding such application for pension, a professional tramp or beggar. Tramp or beggar.

HeinOnline -- 1923 193 1923

Maximum income.

Section 6. The income of the claimant from all sources at the date of application for relief shall not exceed three hundred dollars ($300.00) per annum.

Property.

(a) The claimant must not have deprived himself or herself, directly or indirectly, of any property for the purpose of qualifying for old age relief.

Children or dependents.

(b) The aged person must have no child or any other person responsible legally for the support of the aged person under the laws of the State of Montana fully able to support the applicant.

Refund to county on death of pensioners when.

(c) At the death of the person to whom the pension is granted, or of the last survivor of a married couple, the total amount of the pension since the first grant, together with five (5) per centum of interest shall be deducted and allowed by the proper courts out of the proceeds of his or her property as a preferred claim against the estate of the person so assisted, and refunded to the County Treasury to the credit of the Poor Fund, leaving the balance for distribution among the lawful heirs in accordance with law; provided that the Old Age Pension Commission may demand the assignment or transfer of such property upon the first grant of such pension. The Old Age Pension Commission shall establish such rules and regulations regarding the care, transfer, management, and sale of such property as it deems advisable, and also provide for the return of the balance of the claimant's property into its hands whenever the pension is withdrawn or the claimant ceases to request it.

Annual income how computed.

Section 7. The annual income of any property inclusive of a homestead, shall be computed at five (5) per centum of its determined value.

Income and property how computed.

(a) In ascertaining a claimant's income and the amount of pension, his income for the last preceding year shall be deemed his annual income, and the property owned at the end of that year as his accumulated property, provided that when the claimant shows to the satisfaction of the Old Age Pension Commission the loss of personal income derived from personal earnings, it shall be deducted from the income of the preceding year in considering the amount of pension to be granted.

Claims how made.

Section 8. A claimant for an Old Age Pension under this act shall deliver his or her claim in writing to the Old Age Pension Commission of the county in which the claimant resides in the manner and form prescribed by the Old Age Pension Commission. All statements in

Afidavit.

HeinOnline -- 1923 194 1923

the application shall be sworn to or affirmed by the applicant setting forth that all facts are true and correct in every material point.

Old age pension certificate how and when issued.

Section 9. When the claim is established and the rate of the first year's Old Age Pension is fixed, the Old Age Pension Commission shall in the manner it may prescribe certify the same to the County Treasurer of such county and shall issue to the claimant an Old Age Pension Certificate which shall state the date of issuance, the claimant's name, age, residence and the amount of monthly payment which certificate shall be good for one year unless sooner revoked.

Renewal.

(a) The Old Age Pension Certificate shall be required each subsequent year, to be renewed after satisfactory investigation.

Commencement of pension.

Section 10. The Old Age Pension shall commence on the date named in the certificate issued to the claimant by the county treasurer.

Monthly payments.

(a) All Old Age Pensions shall be paid in monthly payments by county warrants drawn on the County Treasurer and on the poor fund thereof.

Cancellation of pension when.

Section 11. If at any time during the currency or continuance of an old age certificate, the recipient or the wife or husband of the recipient becomes possessed of any property or income in excess of the amount allowed by law in respect to the amount of pension granted, the Old Age Pension Commission may, on inquiry, either cancel the pension or vary the amount thereof during the period of the certificate, and it shall be the duty of the recipient immediately to notify the Old Age Pension Commission of the receipt and possession of such property or income.

Recovery of double the amount of pension from decedent's estate when.

(a) If on the death of any recipient of an Old Age Pension, it is found that he, or she, was possessed of property in excess of the amount allowed by law in respect to the amount of pension granted, double the total amount of the relief granted in excess of that to which the recipient was by law entitled, may be recovered by the Old Age Pension Commission as preferred claim from the estate so found in excess. The attorney general or county attorney shall take the necessary proceedings to recover such claim and the amount recovered shall be paid into the county treasury of such county.

Action to recover

Funeral expenses.

Section 12. On the death of a recipient of old age pension, the installment then accuring and such other reasonable funeral expenses as are necessary for the

HeinOnline -- 1923 195 1923

burial of such person shall be paid to such persons as the Old Age Pension Commission directs; provided that these expenses do not exceed One Hundred Dollars ($100.00) and provided further that the estate of the deceased is insufficient to defray the expenses.

Limitation.

Not vested right.

(a) It is provided, further, that these provisions for providing old age pensions shall not be construed as a vested right in the pensioners.

Other relief forbidden.

Section 13. During the continuance of the old age pension no recipient shall receive any other relief from the state or from any political subdivision thereof except for medical and surgical assistance.

Exceptions.

Alienation of pension forbidden.

Section 14. All old age pensions shall be absolutely inalienable by any assignment, sale, attachment, execution or otherwise, and in case of bankruptcy the old age pension shall not pass to any trustee or other persons acting on behalf of creditors.

Suspension when improperly obtained.

Section 15. If at any time the Old Age Pension Commission has reason to believe that any old age pension certificate has been improperly obtained, it shall cause special inquiry to be made by the county attorney and may suspend payment of any installment pending the inquiry. If, on inquiry, it appears that the certificate was improperly obtained, it shall be cancelled by the Old Age Pension Commission, but if it appears that the certificate was properly obtained, the suspended installment shall be payable in due course.

Penalty for forbidden acts.

Section 16. Any person who by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device, obtains, or attempts to obtain, or aids or abets any other person to obtain

(a) An old age pension certificate to which he is not justly entitled,

(b) A larger amount of assistance than that to which he is justly entitled.

(c) Payment of any forfeited installment grant.

(d) Or aids and abets in the buying or in any way disposing of the property of an old age pension recipient without the consent of the Old Age Pension Commission, shall be guilty of a misdeameanor and upon conviction thereof shall be sentenced to pay a fine of not exceeding five hundred dollars ($500.00) or to undergo imprisonment not exceeding six months, or both.

Misdemeanor fine.

Penalty generally.

Section 17. Any person who violates any provisions of this act for which no penalty is specifically provided

HeinOnline -- 1923 196 1923

shall be subject to a fine not exceeding five hundred ($500.00) Dollars or to undergo imprisonment not exceeding six months, or both.

Cancellation of certificate.

(a) Where an old age pension recipient is convicted of an offense under this section, the Old Age Pension may cancel the pension certificate in respect to the issue of which the offense was committed.

Suspension of payments on conviction of crime.

Section 18. If any recipient under this act is convicted of any crime, misdeameanor, or felony, or other offense, punishable by imprisonment for one month or longer period, the Old Age Pension Commission shall direct that payment be not made during such period.

Or if pensioner incapable of caring for money.

Furthermore, if the recipient is found incapable of taking care of his money or himself on the testimony of reputable witnesses, the Old Age Pension Commission may direct the installment of his pension to be paid to any other reputable person for his benefit or may suspend same for such period as it deems fit.

Disqualification on forfeiture.

Section 19. In case of forfeiture of any old age pension certificate the person whose pension is so forfeited shall be disqualified from making any application for a new certificate until the expiration of one year from the date of foreiture.

Funds how obtained.

Section 20. The funds for the payment of the old age pensions shall be furnished by the respective counties and all expenses incurred in the administration of this act shall be paid from the funds of the several counties and paid by the county treasurer from the poor fund of such county.

Expenses how paid.

Annual report of commission.

Section 21. Within ninety (90) days after the close of the calendar year the Old Age Pension Commission of each county shall make a report of the preceding year to the State Auditor of the State of Montana stating.

Contents.

(a) The total number of recipients.

(b) The amount paid in cash.

(c) The total number of applications.

(d) The number granted pension, the number denied, the number cancelled during the year and such other information as the State Auditor may deem advisable.

Procedure how regulated.

Section 22. All methods of procedure in hearings, investigations, recording, registration, and accounting pertaining to the Old Age assistance under this act shall be in accordance with the rules and regulations as laid down from time to time by the Old Age Pension Commission.

HeinOnline -- 1923 197 1923

Effect of repeal or amendments.

Section 23. Every Old Age Pension granted under the provisions of this act shall be deemed to be granted and shall be held subject to the provisions of any amending or repealing act that may hereafter be passed and no recipient under this act shall have any claim for compensation or otherwise by reason of his old age pension being affected in any way by any such amending or repealing act.

Gender of terms.

Section 24. That wherever in this act the masculine pronoun is used, it shall be held to include the feminine pronoun also.

Section 25. This act shall be named and cited as the Old Age Pension Act of the State of Montana.

Act how cited.

Section 26. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

Section 27. This act shall take effect from and after its passage and approval by the Governor.

Approved March 5, 1923.

CHAPTER 73.

An Act to Define Wild Animals and to Provide for Their Destruction, Authorizing Co-operation Between the Livestock Commission and the Biological Survey of the United States Department of Agriculture, Providing for the Disposition of Furs, Skins, and Specimens from Animals Destroyed, Authorizing the Tax Commission, or the Department of State Whose Duty it Is to Fix Tax Levies Annually, to Prescribe a Levy Against Livestock, Providing for the Powers and Duties of the Livestock Commission Relative to the Provisions of This Act, and Repealing Sections 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3415, 3416, and 3417 of the Revised Codes of the State of Montana, 1921, and Amending Section 2081 of the Revised Codes of the State of Montana, 1921, Relative Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Wild animal defined.

Section 1. For the purpose of this Act the term "wild animal" shall include wolf, wolverine, coyote, mountain lion, lynx, bobcat, and any other animal causing depredations upon livestock.

Livestock commission to supervise destruction.

Section 2. The destruction of wild animals shall be conducted under the supervision of the Livestock Commission, which shall make rules and regulations respecting the same and arrange for the carrying out of the

HeinOnline -- 1923 198 1923

provisions of this Act, and said Commission is hereby authorized to co-operate with the authorized representatives of the United States Biological Survey for the systematic destruction of said wild animals by hunting, trapping and poisoning operations. Further to increase the destruction of wild animals, the Livestock Commission may also enter into co-operative agreement with state departments, counties, associations, corporations and individuals.

Skins how disposed of.

Section 3. All furs, skins and specimens, taken by hunters or trappers, whose salaries may be paid in whole or in part out of the fund herein created, shall be sold by the Livestock Commission, and the proceeds from such sales shall be credited to the Bounty Fund, the same to be used in the further carrying out of the provisions of this act, provided that any specimens so taken may be presented, free of charges to any state museum or institution.

Section 4. That Section 2081 be and the same is hereby amended to read as follows:

Bounty fund, creation of

"Section 2081. There is hereby created a fund, to be known as the 'Bounty Fund.' The Tax Commission, or the department of state whose duty it is to fix tax levies, shall annually prescribe the levy recommended by the Livestock Commission to be made against livestock of all classes, for the purpose of paying for the destruction of wild animals killed within the state, which tax in any one year shall not exceed one and one-half (1½) mills on a dollar upon the assessed valuation of such livestock, and such moneys so received shall be used and applied only to the payment of claims for the destruction of wild animals and to the administration of the provisions of this Act, approved by the Livestock Commission, and the moneys received for the taxes so levied shall be transmitted annually with other taxes for state purposes to the State Treasurer by the County Treasurer of each county, and when received by the State Treasurer shall be placed to the credit of the Bounty Fund, and such moneys shall thereafter be paid out on claims approved as aforesaid, duly and regularly presented to the State Board of Examiners, in accordance with the law governing the payment of claims allowed by said Board, and all moneys in said fund are hereby appropriated for such purposes."

Tax levy.

Disposal.

Time of payment for destruction.

Section 4½. The livestock commission may, at their discretion, pay such bounty for the destruction of wild

HeinOnline -- 1923 199 1923

animals at such times of the year as they deem advisable.

Repealing clause.

Section 5. Sections 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3415, 3416, and 3417 of the Revised Codes of Montana, 1921, are hereby repealed. All other Acts and parts of Acts in conflict herewith are hereby repealed.

Section 6. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 74.

An Act to Transfer the Balance in the 'H. L. Hart, Trustee, Langhorne House Account' Fund to the 'Livestock Commission Fund' for the use of the Livestock Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Transfer of certain funds authorized.

Section 1. All moneys now held in the 'H. L. Hart, Trustee, Langhorne House Account,'' shall be transferred by the State Treasurer and credited to the Livestock Commission Fund for the use and benefit of the Livestock Commission.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 75.

An Act to Define the Duties of All Persons, Firms, Corporations, or Associations Who Slaughter, or Cause to Be Slaughtered, Cattle, or Who Sell, or Distribute Dressed Bovine Meat; to Require Written Statements From the Vendor; Providing for License: Making a Violation of This Act a Misdemeanor, Providing a Penalty Therefor, and Repealing Chapter 242 of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Record of slaughtered cattle to be kept.

Section 1. Every person, firm, corporation, or association, who slaughters, or causes to be slaughtered, cattle, for sale or distribution, or who deals in the sale or distribution of dressed meats, shall keep a true and correct record thereof in a book, which record shall include a

HeinOnline -- 1923 200 1923

description of the marks and brands on each animal slaughtered, the color of hide, whether such animal was raised by the person, firm, corporation, or association slaughtering, or causing it to be slaughtered, and if not, from whom such animal was purchased, and the date it was received by the firm, corporation or association slaughtering or causing it to be slaughtered; and a duplicate copy of such record, shall by such firm, corporation, or association, or any agent thereof with knowledge of the facts, be made with an affidavit to the correctness of the same and filed with the County Clerk of the county wherein such animal or animals were slaughtered, on or before the fifth day of each calendar month following the slaughter of said animal. The records herein provided for shall at all reasonable times be open to the inspection of the public.

Filing.

Inspection.

Section 2. Every person, firm, corporation, or association, who either slaughters or offers for sale, or sells, or distributes dressed bovine meat, in this state shall first obtain from the County Treasurer, a license to sell, or distribute such meat, and shall pay for such license the sum of One dollar, said payment to be made annually in advance and said license fee when collected, shall be deposited in the general fund of the county. The provisions of this section shall not apply to any person who shall kill beef or veal in good faith for his own use.

License from county treasurer to sell meat.

Exception.

Section 3. Every person, firm, corporation, or association, who offers to sell, or sells or distributes any dressed bovine animals, or any part thereof, and fails when so requested, to expose to the purchaser, the unmutilated hide of the animal with the ears attached, and does not keep such hide, with ears attached, unmutilated and in its entirety, for ten days after the sale, at his place of residence, or refused to allow such hide to be examined and inspected by any person, is guilty of a misdemeanor and punishable as hereinafter provided.

Penalty for failure to keep and expose hide.

Section 4. A licensed butcher, within the meaning of this act, is any person, firm, corporation, or association actually engaged in and conducting at a fixed location, a regular business in slaughtering of animals, or the sale of meats therefrom, to the public at retail, or wholesale, or any agent, manager, or other employe thereof in charge, or in control of said business.

Licensed butcher defined.

Section 5. Every person, firm, corporation, or association, slaughtering cattle, who does not keep the unmutilated hide, with ears attached, of such animals in

Penalty for failure to keep hide.

HeinOnline -- 1923 201 1923

its entirety for ten days after the date of slaughter, at his place of business, or residence, or refused to allow the same to be examined and inspected by any other person, is guilty of a misdemeanor and upon conviction thereof, is punishable as hereinafter provided.

Inspection of hides for brands.

Section 6. It shall be unlawful for any licensed butcher, market man, or any person or persons, to purchase from any peddler, or person, the carcass, or any part thereof, of any beef, or veal, without first making an examination and inspection of the hide of such animal for marks and brands, and immediately after purchase to make a record, in a book to be kept for that purpose, of such marks and brands, appearing upon the hide of such animal so purchased, the description of the hide, including the color of the same, together with the name of the vendor, his or its residence address, weight of the carcass, price paid per pound, and date of purchase. The provisions of this section shall not apply to any person who shall purchase beef or veal in good faith for his family use.

Record of brands and hide.

Penalty for violation of act.

Section 7. Any person, or persons, who violates any of the provisions of this act or who wilfully falsifies any of the records required to be kept by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars, nor more than Five Hundred Dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than six months, or by both such fine and imprisonment.

Repeal and saving clause.

Section 8. Chapter 242 of the Revised Codes of Montana of 1921, and all acts and parts of acts in conflict herewith are hereby repealed, save that no action or proceeding pending, and no penalty incurred under any law hereby repealed, at the time of such repeal, shall be abated thereby, but the same may be prosecuted and enforced in all respects as though such law, or laws had not been repealed.

Section 9. This shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

HeinOnline -- 1923 202 1923

CHAPTER 76.

An Act Prohibiting the Mutilating, Destroying, or Concealing of the Hides of Livestock; Making the Violation of This Act a Felony, and Providing a Penalty for Such Violation.

Be it enacted by the Legislative Assembly of the State of Montana:

Mutilation or concealment of hides crime when

Section 1. Every person who wilfully or maliciously mutilates, destroys, or conceals the hide from any horse, mare, colt, mule, jack, jennet, bull, steer, cow, calf, goat, hop or sheep with intent to or for the purpose of removing evidence of ownership of such hide or the animal from which said hide was removed, is guilty of a felony, and punishable as hereinafter provided.

Sufficiency of pleading.

Section 2. In any prosecution for the violation of the provisions of this act, it shall not be necessary for the state to allege in the complaint or information or proof, the ownership of the hide, or of the animal from which said hide was removed, but it shall be sufficient to allege in the complaint or information or proof that the owner of said hide or of the animal from which said hide was removed, is unknown and not the property of the defendant.

Penalty.

Section 3. Any person or persons who violates any of the provisions of this act shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the State Prison for not less than one year nor more than ten years.

Section 4. All acts and parts of acts in conflict herewith the hereby repealed.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 77.

An Act to Amend Sections 3652, 3653, 3681, 3685, 3694, 3695, 3696, 3697, 3699, 3700, 3701, 3702, 3703, 3704, 3707, 3714, 3722, 3723, 3730, 3731, 3732, 3733, 3742, 3745, 3751, and 3753 and Repealing Sections 3686, 3724 and 3752 of the Revised Codes of Montana, Relating to the State Fish and Game Commission, Fish and Game, Licenses, Protection and Propagation of Fish and Game.

HeinOnline -- 1923 203 1923

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3652 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Meetings and organization of commission.

"3652. MEETINGS. The members of the Commission shall, within thirty days after their appointment and annually thereafter, meet and organize by electing from its membership a chairman, and shall hold quarterly or other meetings for the transaction of business, at the office of the Secretary in Helena, at such time as it may deem necessary and proper; provided, however, that other meetings may be held at other times and places for the purpose of inspection or investigation, said meetings to be called by the Chairman, or by a majority of the Commission, and to be held at the times specified in the call for the same. A majority of the members of the Commission shall constitute a quorum for the transaction of any business which may come before it and all the business of said Commission shall be transacted through the office of the Secretary of the Commission at Helena, Montana. The said Commission shall keep a record of all the business transacted by it and shall have the power to discharge any appointee, or employee of said Commission for or without cause at any time. The Chairman and Secretary, hereinafter designated, shall sign all orders, minutes, or documents for the Commission."

Quorum.

Record of business.

Section 2. That Section 3653 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

General powers and duties of commission.

"3653. POWERS AND DUTIES OF COMMISSION. The Commission hereby created, shall have supervision over all the wild life, fish, game, game and non-game birds and water-fowl, and game and fur bearing animals of the State, and shall possess all powers necessary to fulfill the duties prescribed by law with respect thereto, and to bring actions in the proper court of this State for the enforcement of the fish and game laws of the State, and the orders, rules and regulations promulgated by the Commission. It shall have full power and authority to enforce all the laws of the State of Montana, respecting the protection, preservation and propagation of fish, game, game and non-game birds within the State. It shall have the exclusive power to expend for the protection, preservation and propagation of fish, game and

Expenditure of funds.

HeinOnline -- 1923 204 1923

game birds. all funds of the State of Montana, collected or acquired for that purpose, whether arising from State appropriations, licenses, fines, gifts or otherwise. It shall have power to discharge any appointee or employee of such Commission for or without cause at any time. It shall have full power and authority to dispose of all property owned by the State of Montana, used for the protection, preservation and propagation of fish, game and game birds, which shall have been found to be of no further value or use to the State, and shall turn over the proceeds arising therefrom to the State Treasurer to be by him credited to the State Fish and Game Fund. It shall have full power and authority to use so much of the Fish and Game Funds of the State as may be necessary for the construction, maintenance, operation, upkeep and repair of fish hatcheries, game farms, or other property or means and appliances for the protection and propagation of fish, game or game birds in the State of Montana; and it shall have the authority to appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish and game. It shall have authority to provide for the importation of game birds and animals, and for the protection, propagation and distribution of imported or domestic birds and animals. It shall have authority to spend so much of the State Fish and Game Funds as may be necessary to introduce and propagate such wild water-fowl food as will thrive, grow and mature in the waters of this State, and for that purpose may secure expert advice as to what kinds of wild water-fowl foods are adapted to the climate, soil and waters of this State. It shall be its duty to furnish plans for, and to direct and compel the construction and installation and repair of fish ladders upon dams and other obstructions in streams which, however, shall be installed and maintained at the proper cost and expense of the owner or owners of same. It shall have the authority to purchase and maintain at the expense of the State Fish and Game Fund, suitable fish screens or fish wheels, or other devices, and to install them in irrigation ditches to prevent fish entering said ditches, and to maintain said fish screens or fish wheels, or other devices, after the installation thereof in such a manner that no damage shall result therefrom to the owner or owners of the irrigation ditch or ditches in which said fish screens or fish wheels, or other devices, are installed. It shall

Disposal of property.

Maintenance of hatcheries.

Extermination of predatory animals.

Introduction of game.

Fish ladders and screens.

HeinOnline -- 1923 205 1923

Nurseries and rearing ponds.

have authority to locate, lay out, construct, and maintain nurseries and rearing ponds, where fry can be planted, propagated and reared and when of suitable sizes, liberated and distributed in the waters of this State, and may expend from the State Fish and Game Funds such sums as may be necessary for this purpose. It shall have authority to acquire by gift, purchase, capture, or otherwise any fish, game, game birds or animals, for propagation, experimental, or scientific purposes. It shall have authority to divide the State into Fish and Game Districts, and to create Fish and Game Districts throughout the State of Montana and to declare closed season for hunting or fishing in any of said districts, so created, and later to open said districts to hunting and fishing. It shall have authority to declare a closed season on any species of game, fish or game birds, or fur bearing animals threatened with undue depletion from any cause, and to close any stream, public lake, or public water, or portions thereof, to fishing for limited periods of time, when such action is necessary to protect a recently stocked water, spawning waters, spawn-taking waters, or spawn-taking stations, or to prevent the undue depletion of fish, and later to open the same. It shall have authority to establish game refuges for the purpose of providing safe sanctuaries in which game may breed and replenish, adjacent to game ranges, it being the purpose of this provision to establish small refuges rather than large preserves or rather than to close large areas to hunting. Provided, however, that no refuge, preserve or sanctuary shall be set aside or created by the Commission except that the same be petitioned for by seventy-five per cent (75%) of the actual property owners to be included within the proposed boundaries of said refuge, preserve or sanctuary or in case there are no property owners within the proposed boundaries of said area proposed to be set aside, then by a petition to the commission, signed by seventy-five (75%) of those directly interested or affected financially by the setting aside of said area. It shall have authority to designate and protect certain areas as rest grounds for migratory birds, in which hunting shall be forbidden, it being the purpose of this provision not to interfere unduly with the hunting of water-fowl but to provide havens in which they can rest and feed without molestations. It shall have authority to establish and maintain an educational and biological department of

Fish and game districts.

Closed seasons and waters.

Game refuges.

Refuges how created.

Rest grounds.

Educational department.

HeinOnline -- 1923 206 1923

their work for the collection and diffusion of such statistics and information as shall be germane to the purpose of this Act. After petition has been duly filed with the Secretary of the Commission praying that an area shall be set aside, the said Secretary shall immediately publish a notice in a paper of general circulation in the county in which said area is proposed, that a hearing in connection therewith will be held at the office of the said Secretary at Helena on a day not less than fifteen (15) days from the date of first publication to be specified in said notice at which time and place all interested parties shall have the right to appear and be heard. Said Commission shall, in addition to the powers heretofore granted, have such other and further powers as may be necessary to fully carry out the purposes and intent of all the laws pertaining to fish, game bird and animal propagation, protection and conservation of this Act."

Hearing on setting aside area.

Other powers.

Section 3. That Section 3681 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

"3681. For the purposes of this Act, the following shall be construed, respectively, to mean:

Definition of terms.

"COMMISSION. The State Fish and Game Commission.

"PERSON. The plural or singular, as the case demands, including individuals, associations, partnerships and corporations, unless the context otherwise requires.

"OPEN SEASON. The time during which game birds, fish, game and fur-bearing animals may be lawfully taken.

"CLOSED SEASON. The time during which game birds, fish, game and fur-bearing animals may not be lawfully taken.

"ANGLING OR FISHING. The taking of, or attempting to take game fish by hook and line in hand or rod in hand.

"UPLAND GAME BIRDS. Sharptailed grouse, blue grouse, prairie chicken, sage hen or sage grouse, fool hen, ruffed grouse, commonly called pheasant or partridge, quail, chinese pheasant and mongolian pheasant, commonly called ringnecked pheasant, hungarian partridge, and wild turkey.

"MIGRATORY GAME BIRDS. Water fowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown, sandhill and whooping cranes; rails, including coot, gallinules, sora, and other rails; shore birds, including avocets, curlew, dowiteker, godwits, knots,

HeinOnline -- 1923 207 1923

upland plover, kildeer, sandpipers, Wilson snipe or jack-snipe, snipe, stilts, plovers, willet and yellowlegs; and mourning or turtle dove.

"GAME ANIMALS. Deer, elk, moose, antelope, bison, or buffalo, caribou, mountain sheep, mountain goat, and bear.

"FUR-BEARING ANIMALS. Marten, otter, fox, sable, muskrat, fisher and beaver.

"PREDATORY ANIMALS. Coyote, wolf, wolverine, mountain lion, lynx, and bobcat.

"GAME FISH. Mountain trout, Cutthroat or Native Trout, (Salmo Mykiss); Rainbow Trout, (Salmo Irideus); Eastern Brook Trout, (Salvelinus Fontinalis); Grayling, (Thymallus Montanus); Steelhead trout, (Salmo Gairdneri); Dolly Varden trout, (Salvelinus Malma); Loch Leven trout, (Salmo Trutta Levenensia); Chinook Salmon, (Oncorhynchus Techawytacha); Silver Salmon, (Oncorhynchus Kisutch); Sockeye Salmon, (Oncorhunchus Nerka); Yellow Perch, Ringed Perch, (Perca Flavenscens); Large Mouth Black Bass, (Micropterus Salmoides); Common Sunfish Pumpkinseed, (Leponis Gibosus); Great Northern Pike, Northern Pickerel, (Eso Lucius); Pike Perch, Wall Eyed Pike, Pike, Yellow Pike, (Stizostedion Vitreum); Barbot, Lawyer, Ling, Eel-pont, (Lota Maculosa); All species of Catfish found in the streams of Montana."

Section 4. That Section 3685 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

License fees. "3685. FEES AND POWERS UNDER LICENSES. Said applicant, if a resident of the State of Montana and a citizen of the United States shall pay to the officer or person countersigning and issuing the license the sum of Two Dollars ($2.00), as a license fee, and shall obtain a

Class A license. license of Class A, which shall entitle the holder to hunt, kill, capture, take and possess game, game birds and animals and to fish with hook and line as authorized by this Act.

Resident citizens defined. "All citizens of the United States who have lived in this State for at least six months, immediately preceding their application for a license, or officers and soldiers of the United States Army shall be deemed resident citizens for the purposes of this section, as well as all officers of the Forest Service and of the Biological Survey of the United States Department of Agriculture.

HeinOnline -- 1923 208 1923

"Said applicant, if a non-resident of the State, or a resident for less than six (6) months, immediately preceding his application for a license, and a citizen of the United States, shall pay to the officer countersigning and issuing the license, the sum of Thirty Dollars ($30.00), as a license fee and shall obtain a license of Class B, which shall entitle him to hunt, kill, capture, take and possess game, game birds and animals, and to fish with hook and line as authorized by this Act; and such non-resident, on like application and on the payment of the sum of Ten Dollars ($10.00) as a license fee, and shall obtain a Class C license, which shall entitle him to hunt and kill game birds and small game and to fish with hook and line as authorized by this Act; and such non-resident on like application and on the payment of the sum of Three Dollars and Fifty Cents ($3.50), as a license fee, and shall obtain a class D license, which shall entitle the holder to fish with hook and line as authorized by this Act.

Non-residents license.

Class B license.

Class C license.

Class D license.

"Said applicant if an alien, resident or non-resident, shall pay to the officer countersigning and issuing the license the sum of Fifty Dollars ($50.00) as a license fee, and shall obtain a Class E license, which shall authorize him to hunt, capture, kill, take and possess game, game birds and game animals, and to fish with hook and line as authorized by this Act; such alien, on the payment of the sum of Ten Dollars ($10.00) as a license fee, and shall obtain a Class F license, which shall entitle him to fish with hook and line as authorized by this Act; provided, however, that any person in possession of first citizenship papers shall not be considered a resident of the State of Montana, for the purposes of this Act. All money collected for licenses sold, shall be remitted by the State Game Warden to the State Treasurer to be credited to the Fish and Game Fund.

Class E license.

Class F license.

Disposal of license fees.

"The applicant for a Class G license, or trappers license, must be the owner and in the possession of a Class A license, and upon the payment of the sum of Ten Dollars ($10.00), to the officer to whom the application for a Class G license is made shall receive and obtain a Class G or trappers license which shall authorize the holder thereof to trap fur-bearing animals within the State at such times and in such manner as may be lawful so to do by the laws of this State, and the regulations of the Fish and Game Commission, and at such places as may be designated in said license.

Class G license for trappers.

HeinOnline -- 1923 209 1923

Penalty for violation act.

"Any person violating any of the provisions hereof shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. Twenty-five cents (25c) out of every license fee collected shall be set aside as a fund to be used in co-operation with either the State Livestock Commission, United States Biological Survey, or any other State Department for the destruction of predatory animals."

Portion of license fee used for destruction predatory animals.

Section 5. That Section 3694 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Regulation of taking fish and game.

"3694. MANNER OF TAKING FISH AND GAME. No person shall take, capture, shoot, kill or attempt to take, capture, shoot, or kill any game animals or game birds from any automobile, or within the bounds of any public highway, or by the aid or with the use of any set-gun, jack-light, or other artificial light, trap, snare, or salt-lick, nor shall any such set-gun, jack-light, or other artificial light, trap, snare, salt-lick, or other device to entrap or entice game animals or game birds, to be used, made, or set; provided, however, this does not prohibit the shooting of wild waterfowl from blinds or over decoys with a gun only, not larger than a number 10 guage fired from the shoulder; nor shall game birds be killed or hunted from aeroplane, power-boat, sail-boat, any boat under sail, or any floating device towed by powerboat or sailboat. No person shall take into a field or forest, or have in his possession, while out hunting, any device or mechanism, designated to silence or muffle or minimize the report of any firearm, whether such device or mechanism be separated from or attached to any firearm. A person may take game birds and small wild animals during the open season therefor, with the aid of a dog, unless specifically prohibited by this law. An association organized for the protection of game, may run field trails for dogs at any time upon obtaining written permission from the State Fish and Game Warden.

Use of certain devices prohibited.

Size of Gun.

Power boats.

Silencing devices.

Dogs, regulation of use.

Days catch, limit of, weight and number.

"It shall hereafter be unlawful for any one person to catch from the public waters of this State more than forty (40) fish in the aggregate with a net weight of twenty (20) pounds and one (1) additional fish in any one day, of the variety of fish designated herein as game fish, or more than five (5) such game fish which are less than seven (7) inches in length, excepting Sunfish, Yellow Perch, Ringed Perch, and Bass, in any one day. It is hereby declared to be the intention of this Act to provide

HeinOnline -- 1923 210 1923

that forty (40) fish with a net weight of not more than twenty (20) pounds and one (1) additional fish of any and all the game fish shall constitute the limit for a day's fishing. It shall be unlawful for any person to be in the possession of more than forty (40) fish in the aggregate or more than twenty (20) pounds net weight and one (1) additional fish of any and all kinds of game fish at any time.

"Game fish shall be taken only by angling; that is, by hook and line in hand or rod in hand. It shall be unlawful to catch any game fish through the ice, except in such waters as are designated under proper order of the State Fish and Game Commission. In case any game fish is unintentionally taken contrary to the prohibitions or restrictions contained in this Act such fish shall be immediately liberated and returned to the water without unnecessary injury. Any person who shall take, capture, shoot, hunt, or kill any fish, game, game birds or fur-bearing animals of this State in any manner contrary to the provisions of this Act shall be deemed guilty of a misdemeanor, and on conviction, shall be punished accordingly; provided, however, that it shall be unlawful and a misdemeanor, punishable accordingly, for any person between the Fifteenth (15th) day of March and the Twenty-eighth (28th) day of May, both days inclusive, of the same year, provided however, the Fish and Game Commission shall have the power to change the closed season on game fish so as to meet local conditions, to catch or attempt to catch in the public waters of this State any fish whatsoever, except when license has been given to sein or net Carp, Buffalo and suckers, provided, that said commission may extend said time when in their discretion local conditions or emergencies require.

Fishing through ice forbidden.

Penalty.

Proviso.

Changing closed season.

Section 6. That Section 3695 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

"3695. Any person who owns or lawfully controls an artificial lake or pond may stock the same with fry procured from the Federal or from the State Government at the prevailing market price, providing there is a surplus of said fry, or from any other lawful source, and shall thereafter have the right and privilege to take from said lake or pond in any manner, except by the use of poison or explosives, the fish therein contained, and to sell and dispose of said fish and of eggs and fry therefrom. The words "artificial lake or pond" as herein used shall

Stocking private lakes.

Definition.

HeinOnline -- 1923 211 1923

not be construed to include any natural pond or body of water created by natural agencies, but shall be limited only to such bodies of water as are created by the artificial diversion or storage of water and shall not exceed 100 acres of surface area.

License and bond.

Provided, however, that such owner shall procure a license in the manner provided by the laws of the State of Montana, and shall furnish a good and sufficient bond to the State of Montana, in the sum of Two Hundred Dollars ($200.00), conditioned to the effect that he will not sell fish caught in any of the public waters of this State, and also conditioned to the effect that such owner or holder will report to the State Game Warden the quantity of fish, fish eggs and spawn taken from said lake or pond, and sold from and planted in, said lake or pond during any calendar year. Said report to be made under oath annually in the month of January of each year."

Section 7. That Section 7 be amended to read as follows: That Section 3696 of the Revised Codes of Montana, of 1921, be and the same is hereby amended to read as follows:

Elk, regulation of killing, closed seasons.

"3696. OPEN SEASON FOR ELK. The open season for elk shall begin October fifteenth (15th) and end November Fifteenth (15th), both dates inclusive, of each year. The closed season for elk shall begin November Sixteenth (16th) of each year, and end October Fourteenth (14th) of the following year, both dates inclusive. During the open season for elk it shall be unlawful for any person to shoot, or kill, or cause to be shot or killed more than one (1) elk. During the closed season for elk, it shall be unlawful to hunt, shoot, kill or capture or cause to be shot, killed or captured any elk. It shall be

Wasting meat forbidden.

unlawful for any person responsible for the death of any elk to wilfully waste any portion or portions of said elk which are suitable for food, provided, also that it shall be unlawful and a felony punishable accordingly, for any person at any time to hunt for, shoot, kill, or capture, or cause to be shot, killed or captured, any elk within the limits of the counties and the territories hereinafter described and which are designated hereby as "Preserves for Elk", the same to remain closed until opened by authority of law, or order of the State Fish and Game Commission.

Elk preserves designated.

"The following named counties, as a whole: Jefferson, Deer Lodge, Fergus, Chouteau, Valley, Golden Valley, Daniels, Roosevelt, Fallon, Wibaux, Richland, Granite,

HeinOnline -- 1923 212 1923

Phillips, Stillwater, Sanders, Silver Bow, Broadwater, Musselshell. Hill, Sheridan, Judith Basin, McCone, Big Horn, Lincoln, Rosebud, Mineral, Beaverhead, Powder River, Garfield, Carbon, Cascade, Meagher, Blaine, Yellowstone, Liberty, Carter, Custer, Prairie, Dawson, Toole, Ravalli, Treasure, and Wheatland.

"All of Lewis and Clark, except that portion drained by the South Fork of the Flathead river, and that portion lying north of the Big Blackfoot river, and that portion of Lewis and Clark County lying north of the North Fork of the Dearborn river, not included within a game preserve in which the open season shall commence November 5, and terminate November 15, both dates inclusive. Also all of Missoula and Powell Counties, except so much of said counties described as being those portions of said counties lying north of the Main Blackfoot river, and also except that portion of said counties drained by the waters of the South Fork of the Flathead River; and also except those portions of Missoula County lying east of Belmont creek from its source, north of the Big Blackfoot river, and east of the confluence of said Belmont creek with the Big Blackfoot river at the west end of Nine Mile Prairie; also except that portion of Missoula County drained by the streams flowing into Swan River; provided, however, that all of Gallatin County shall be open to elk hunting during the dates hereinabove mentioned, except that portion of Gallatin County north of the south line of Township 4, North, described as follows, to-wit: Beginning at a point in the middle channel of the West Gallatin river where said West Gallatin river intersects the west boundary line of the Yellowstone National Park; thence in a northerly direction to the Northwest corner of the Yellowstone National Park; thence easterly along the North boundary line of the Yellowstone National Park to a point where said north boundary line is intersected by the east boundary line of Gallatin county, thence northerly along the eastern line of Gallatin County to a point where the said eastern line of Gallatin county intersects the main water-shed between Sheep Creek and Tom Miner Creek, thence in a general westerly direction along said main water-shed to the east water-shed of the West Gallatin river; then westerly along the slope of said water-shed to a point in the middle channel of the West Gallatin river, which point is opposite the point of Taylor's Fork of the West Gallatin

Exceptions.

Exception as to Gallatin county.

HeinOnline -- 1923 213 1923

river, thence southerly along the Middle channel of said West Gallatin river to the point of beginning.

Exception as to Park county.

"Provided, further that elk may be killed as provided herein, the county of Park, up to and including the Twentieth (20th) day of December of any year, except that the State Fish and Game Commission shall, in its discretion, have power to shorten such season and declare said Park County closed to the hunting or killing of elk at any time after the Fifteenth (15th) day of November of any year, upon giving not less than five (5) days notice thereof, by publishing such notice in at least one newspaper of general circulation published in said Park County, which said publication shall be at least five (5) days prior to the time fixed by such Commission for the closing of such season. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.

Section 8. That Section 3697 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Deer, open and closed season for.

"3697. OPEN SEASON FOR DEER. The open season for deer shall begin October Fifteenth (15th) and end November Fifteenth (15th) both dates inclusive of each year. The closed season for deer shall begin November Sixteenth (16th) of each year and end October Fourteenth (14th) of the following year, both dates inclusive. During the open season for deer, it shall be unlawful for

Bucks, law regulation of killing.

any person to shoot or kill, or cause to be shot or killed any deer other than one (1) male deer, with horns not less than four (4) inches in length above the top of the skull, except in the counties of Lincoln, Flathead, Sanders, Ravalli and Mineral, in which counties any person may kill one deer of any age or sex. During the closed season for deer, it shall be unlawful for any person to take, hunt, shoot, kill or capture, or cause to be taken, shot, killed or captured, any deer. Any person violating

Penalty.

any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. Provided, however, that it shall be unlawful, and a misdemeanor, punishable accordingly, for any person to hunt, shoot, kill, take, or capture, or cause

Exception as to certain counties.

to be shot, killed, taken or captured, any deer within the counties of Yellowstone, Rosebud, Custer, Powder River, Carter, Richland, Roosevelt. McCone, Dawson, Stillwater, Gallatin, Teton, Phillips, Prairie, Garfield and

HeinOnline -- 1923 214 1923

Valley, and within all that part of Fergus County lying north of the township line between Townships eighteen (18) and nineteen (19) and east of the Range line between Ranges Twenty-four (24) and Twenty-five (25) in said county, and within that portion of Lewis and Clark lying north of the North Fork of the Dearborn River, before October Fifteenth (15th), Nineteen Hundred and Twenty-five (1925), provided, however, that it shall be lawful for any person holding license to kill one male deer with horns not less than four inches in length above the top of the skull in all of Gallatin County except that portion of said county north of the south line of Township 4 north.

Section 9. That Section 3699 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Closed season for sheep and goats.

3699. CLOSED SEASON FOR MOUNTAIN SHEEP AND GOATS. That it shall be unlawful to hunt, shoot, kill or capture at any place within the State of Montana, any Rocky Mountain Sheep or Goat, before the first (1st) day of October, Nineteen Hundred and Twenty-six (1926). Any person who violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.

Section 10. That Section 3700 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Game birds closed season for.

"3700. CLOSED SEASON FOR CERTAIN GAME BIRDS. Any person who, at any time within this State, hunts, shoots, kills, captures, possesses, or causes to be shot, killed, or captured, any quail, Chinese or Mongolian Pheasant commonly called ringnecked pheasants, or Hungarian Partridge, or any part of any such bird, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than Fifty ($50.00) Dollars or more than Two Hundred Fifty ($250.00) Dollars, or by imprisonment in the county jail for not more than sixty (60) days or by both fine and imprisonment.

Penalty.

Section 11. That Section 3701 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Grouse and other birds open and closed season for.

"3701. OPEN AND CLOSED SEASONS FOR GROUSE. The open season for sharp tailed grouse, blue grouse, ruffed grouse, commonly called pheasant or part-

HeinOnline -- 1923 215 1923

ridge, prairie chicken, sage hen, sage grouse or fool hen, shall begin on the fifteenth (15th) day of September of each year and end on the twenty-fourth (24th) day of September of the same year, both dates inclusive. The closed season for the game birds named herein shall begin on the twenty-fifth (25th) day of September of each year and end on the fourteenth (14th) day of September of the following year, both dates inclusive. During the open season for the game birds named herein it shall be unlawful for any person in any portion of the State of Montana to shoot, kill or capture or cause to be shot, killed or captured more than five (5) sharp tailed grouse, blue grouse, ruffed grouse, commonly called pheasant or partridge, prairie chicken, sage hen, sage grouse, or fool hen in the aggregate of all kinds in any one day; it shall be unlawful for any person to have in his possession more than five (5) of any such birds in the aggregate of all kinds at any one time. During the closed season for the game birds herein named it shall be unlawful to shoot, kill or capture or cause to be shot, killed or captured any of the game named herein. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished accordingly. It shall be unlawful for any person to hunt, shoot, kill or capture, or cause to be shot, killed or captured, any grouse, prairie chicken, fool hen, pheasant or partridge, within Cascade County before September, 1925. That in such counties where a closed season now exists, same shall still be considered closed territory, subject to the jurisdiction of the Fish and Game Commission."

Regulation of killing.

Limit on bag.

Exception as to Cascade county.

Section 12. That Section 3702 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Commission may open and close districts.

"3702. POWERS TO OPEN AND CLOSE GAME DISTRICTS. Provided, that the Fish and Game Commission shall have the power to close any county or portion thereof to fishing, or game bird or game animal shooting, when upon proper showing by twenty per cent of the residents of said district it shall appear to the Fish and Game Commission that it is to the best interest of said game birds, animals, or fish, and the people shall be best served by the closing of such district, and shall have power to re-open the district so closed thereafter."

HeinOnline -- 1923 216 1923

Section 13. That Section 3703 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Closed season and bag limits on migratory game.

"3703. CLOSED SEASON AND BAG LIMITS ON MIGRATORY GAME BIRDS. Any person who, during the period beginning the sixteenth (16th) day of December of any year and the fifteenth (15th) day of September of the following year, both days inclusive, hunts, kills or captures, or causes to be shot, killed or captured, any wild ducks, wild geese, brant, Wilson snipe or Jacksnipe, blackbellied plover, Golden Plover, greater or lesser yellowlegs, rail coot, or gallinule, or who in any one day during the open season shoots, kills or captures, or causes to be shot, killed or captured, more than twenty (20) wild ducks (other than woodducks), in the aggregate of all kinds, eight (8) wild geese and brant, in the aggregate of all kinds, twenty-five (25) Wilson snipe or jack snipe, twenty-five (25) rails, coot and gallinule in the aggregate of all kinds, and fifteen (15) blackbellied and golden plovers, and greater and lesser yellowlegs in the aggregate of all kinds, or who hunts, shoots at, captures, kills or attempts to capture or kill any migratory bird on any day except from half an hour before sunrise to sunset during the open season, or who, at any time of year, hunts, shoots, kills or captures, or causes to be shot, killed or captured, any little brown, sandhill or whooping crane, swan, woodduck, avocet, curlew, dowitcher, godwit, knot, upland plover, snipe, plover, kildeer, sandpiper, willet, or other shore bird except blackbellied and golden plovers, greater and lesser yellowlegs, and Wilson Snipe or Jacksnipe, shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. Waterfowl when taken in accordance with the provisions of the law may be possessed by the person so taking during the open season where killed and for an additional period of ten days next succeeding December 31st."

Section 14. That Section 3704 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Fur bearing animals, open season for.

"3704. OPEN SEASON FOR FUR BEARING ANIMALS. Any person who between the first (1st) day of April of any year, and the first (1st) day of November of the same year traps, kills or captures, or causes to be shot, killed or captured, or attempts to shoot, kill or capture any marten, otter, fox, sable, or fisher, shall be guilty of a misdemeanor, and upon conviction thereof,

HeinOnline -- 1923 217 1923

shall be punished accordingly. The furs and hides of such animals, legally taken during the open season, may be possessed, bought and sold at any time.

It shall be unlawful for any person between the first (1st) day of April, 1923, and the first (1st) day of November, 1925, to trap, kill or capture, or cause to be shot, killed, trapped or captured, at attempts to shoot, kill, trap or capture, any muskrat, and any person violating the provisions hereof shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. Provided, however, that where it is shown that any muskrat is injuring any dam, ditch, reservoir, or other property, it shall be lawful for the owner of such property to shoot, kill, trap or capture the same, at any time, and in any manner, after securing from the State Fish and Game Warden a permit so to do."

Muskrats when excepted.

Section 15. That Section 3707 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Fees of persons issuing licenses.

"3707. COMPENSATION OF PERSONS ISSUING LICENSES. Any person hereby authorized to issue licenses of any kind, except duly appointed Game and Deputy Game Wardens, shall receive as compensation for issuing such license a sum of ten cents ($0.10) for each license so issued. Said compensation to be by such person retained out of each license fee as reported in the manner herein provided for reports of persons authorized to issue licenses."

Section 16. That Section 3714 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Fishing how regulated.

"3714. CATCHING FISH EXCEPT WITH POLE, LINE AND HOOK—USE OF SEINS—LICENSES TO USE NET—PENALTIES. Every person who takes or catches fish in any of the streams, lakes or ponds of this State, except with a pole in hand, line and hook, or any person who takes or catches fish with a hook baited with any poisonous substance or by means of dams, or by the use of fish-traps and grab-hooks, seins, or similar means for catching fish, is guilty of a misdemeanor. It shall be, however, lawful to use a seine in the Missoula river and also in the Yellowstone river, except in that portion of said river above its confluence with the Big Horn River; provided said seine has a mesh not less than one and one-half (1½) inches square.

Seines, use of.

HeinOnline -- 1923 218 1923

"It shall be unlawful, however, to use a seine of less than two and a half (2½) inch mesh in the following waters: Lake Francis in Pondera County, and Lake Bowdoin in the Nelson Reservoir in Phillips County. All fish so taken by seins, except suckers, buffalo, German carp, and squaw fish, shall be returned to the waters from which they are taken, uninjured. Any person desiring to use a net or seine for the purpose of catching fish, not herein designated as "Game Fish" in any of the lakes, ponds, rivers or streams above mentioned, shall make application to the State Game Warden for a license so to do, stating therein the lake, river, pond or stream in which applicant wishes to catch fish by use of said net or seine; whereupon the said State Game Warden may, in his discretion, and upon the payment of a license fee of Ten Dollars ($10.00) issue to the applicant a license authorizing said applicant to use one (1) seine in any of the rivers, streams, ponds or lakes above mentioned, as applied for, and the State Game Warden shall issue with each license a metal tag, having a number thereon, corresponding with the number of the license issued to such applicant, which shall be by the license, attached to the seine so used, and shall remain on said seine during the time of use, and it shall be unlawful to use any net or seine unless said tag is attached as herein provided, and parties thus engaged must have the necessary license. Said license shall authorize the person to whom issued to use the same for the purpose of catching and selling any fish not herein named as "Game Fish." And the licensee shall make monthly reports of fish caught to the State Game Warden. The license herein provided for may be issued and remain in force for the term of one (1) year from and after the date of issue, and shall authorize the holder to ship fish to any point, and may, for cause, be revoked at any time by the State Game Warden.

Seining License.

Reports of licensee.

"Said License shall be in substantially the following form:

License to Net Fish No. .....
Helena, Montana.

Office of the State Game Warden.

"This will certify that I hereby license ..... of ..... County of ..... State of Montana to take by means of a net, fish from the waters of that certain lake, river, stream, or pond known as and called .....

Form of license to net fish.

HeinOnline -- 1923 219 1923

in ..... County, Montana, for a period of one year; and that when said fish are so taken, that the said ..... may ship same to any point.

"This License allows the taking of fish by means of a net having not less than two and one-half (2½) inch mesh in the waters above named; and that all fish defined by the law of Montana as "Game Fish" shall be returned to the waters from which they were taken without injury.

"Witness my hand this ..... day of .....

.....,

State Game Warden.

Penalty. "Any person violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor, and punished accordingly.

Section 15. That Section 3722 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Beaver license. "3722. PROTECTION OF BEAVER—BEAVER LICENSE. Any person who shall take, trap, kill, capture or in any way destroy any beaver in the State of Montana, except as hereinafter provided, shall be guilty of a misdemeanor and shall be punished accordingly.

"Provided, that any bona fide owner or leasor of real estate who is being actually damaged by beaver may apply to the State Game Warden for a license and permit to destroy the beaver on his own premises only, and any person receiving a license and permit and who shall trap or take beaver other than on his own premises, shall be guilty of a misdemeanor. The word "premises" shall be construed to mean, under the head of any irrigation ditch and Right of Way appurtenant to the land for which said license and permit are issued.

Examination of premises. "That the State Game Warden must, in person or by Deputy, examine the premises and investigate the alleged damage before issuing a license and permit, and may send a trapper to trap the beaver found to be doing damage.

Skins to be sold. The skins taken from said beaver shall be sold to the best advantage and the money for the same paid into the Fish and Game Fund.

Fee for license. "The person making application for a permit to trap beaver shall pay therefor to the State Game Warden the sum of Ten Dollars ($10.00) and shall properly care for all skins taken under said permit, and shall as soon

HeinOnline -- 1923 220 1923

as cured send the same to the State Game Warden, with a report, giving permit number and where and the date caught. The State Game Warden or his Deputy shall tag the skins so received and shall use a metal tag for each skin, said tag to be consecutively numbered and securely attached to every skin. A record of all skins so tagged shall be kept by the State Game Warden which shall show license number under which the skins were caught, the name of the person to whom the permit was issued and the number of the tags fastened to the skins. The skins shall then be returned to the owner who shall pay all transportation charges both ways and shall pay to the State Game Warden Fifty Cents ($0.50) for each skin so tagged. The skin when so tagged may be sold, shipped or traded within the State of Montana, but should the owner wish to ship the beaver skins out of the State of Montana, he shall apply to the State Game Warden for a Shipping Permit and shall give the consecutive numbers of the metal tags on the skins and shall pay Fifty Cents ($0.50) for the permit for each shipment.

Reports.

Skins to be tagged.

Fee for tagging skins.

"Any beaver skins taken or found in this State or which have been shipped out of this State otherwise than provided in this Act, shall be subject to seizure and may be sold by the State Game Warden to the best advantage and the proceeds of the sale shall be turned into the State Treasurer to be credited to the Fish and Game Fund.

Siezure of skins not tagged.

"All permits expire May first (1st). Skins not reported and tagged within sixty (60) days after permit expires, will be subject to seizure and sale."

Expiration of permits.

Section 171½. That Section 3745 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

"3745. GUIDES MUST HAVE LICENSES. No person shall engage in the business of guiding, as the term is commonly understood, without first having procured from the State Fish and Game Warden a guide's license. Any competent person, who is a bona fide citizen of the State of Montana shall upon the presentation of an affidavit, stating that the applicant is of good moral character and responsible, and signed by three taxpayers of the county in which the applicant lives; and by the applicant making the payment of Ten Dollars ($10.00) to the State Game Warden, receive from said State Game Warden a guide's License, which shall be good for one year only; provided that upon the payment of Ten Dollars ($10.00)

Guides, license and fee.

HeinOnline -- 1923 221 1923

annually said license may be renewed. Such license shall state the name, age, and place of residence of the holder, and shall further recite that the holder of such license is a person of good moral character."

Section 18. That Section 3723 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Birds and nests, protection of.

"3723. CERTAIN WILD BIRDS PROTECTED. Any person who at any time of year shall hunt, capture, kill, or possess, any wild bird other than a game bird, or take or destroy the nest or eggs of any wild bird, shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. Provided, however, the provisions of this section shall not apply to the hunting, capturing or killing of English Sparrows, Crows, Hawks, Snow Owls, Great Gray Owls, Great Horned Owls, Blackbirds, Kingfishers, Magpies, and Jays, or the taking or destruction of their nests and eggs."

Section 19. That Section 3730 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Shipment of game how regulated.

"3730. SHIPMENT OF GAME OUT OF STATE UNLAWFUL. It is hereby declared to be unlawful and a misdemeanor, punishable accordingly, for any person or persons to ship or take out of the State any of the game or non-game birds, fish, game animals or the skins from fur-bearing animals, or any part thereof, which are mentioned in this Act, except the same be done in the manner provided for herein, and in conformity to the law with reference thereto."

Section 20. That Section 3731 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Permit to ship game.

"3731. PERMIT TO RESIDENT TO SHIP GAME. Any resident of this State who desires to ship out of the State any game animals, game or non-game birds, fish, or the skins of fur-bearing animals, or part thereof, legally taken or killed during the open season for the killing of the same, shall first procure a permit from the State Fish and Game Warden, said permit stating the name of the consignee and consignor, destination and number and kind of game and non-game birds, game animals, fish or fur-bearing animals from which the fur is taken, that is to be shipped, and said permit shall be presented to the transportation company with the consignment of game."

HeinOnline -- 1923 222 1923

Section 21. That Section 3732 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Non-residents may ship game how.

"3732. Any non-resident of this State who has procured a proper license to hunt or fish within this State, and who desires to ship out of the State any of the game animals, game birds, fish, or any part thereof, with the exception of skins from fur-bearing animals mentioned in this Act, taken or killed by him during the open season for killing the same, the same having been killed lawfully, shall present to the transportation company his license with the consignment of game or fish to be shipped, provided, that no person shall ship in one year more game or fish than it is lawful for one person to kill in a single open season."

Section 22. That Section 3733 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Packages to be labeled.

"3733. LABELING OF PACKAGES CONTAINING FISH OR GAME. It is required that all packages containing fish, game or non-game birds, game animals or parts thereof, or the skins from fur-bearing animals shall be labeled in plain letters on the address side of the package so as to disclose the contents. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction punished accordingly."

Section 23. That Section 3742 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Sale of game birds, fish or animals prohibited.

"3742. SALE OF GAME BIRDS—GAME FISH OR ANIMALS—GAME SPECIMENS DEFINED. It is hereby made unlawful for any person to purchase, sell, offer to sell, possess, ship, or transport for sale, any game, fish, wild bird, game animals, or part of a game fish, wild bird, or game animal, protected by the laws of this State or coming from without the State whether belonging to the same or a different specie from that native to the State of Montana. The provisions of this section shall not apply to the plumage of wild waterfowl lawfully killed when purchased or sold for other than millinery purposes or to birds or animals collected or possessed under a permit issued by the proper State authority for scientific purposes, nor shall the provisions of this section be construed to prohibit the purchase, sale, offering for sale,

Proviso.

HeinOnline -- 1923 223 1923

shipping, transporting, or possessing for sale, the head, skin, or scalp, mounted or unmounted or any full sized mount of any game animal lawfully killed, provided the seller, before selling any such specimen shall first obtain from the State Game Warden, a permit authorizing him to sell it. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished accordingly."

Section 24. That Section 3751 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Taxidermists license.

"3751. TAXIDERMISTS TO PROCURE LICENSE. Any person who shall engage in, or who is at the present time engaged in conducting any taxidermist business, as the term is generally understood, or any person who conducts a business for the purpose of mounting, preserving or preparing any of the dead bodies of any birds, or animals, or any part thereof, mentioned in the Game Laws of this State, must first obtain from the State Fish and Game Warden a Taxidermist's license, and shall pay an annual license fee of Fifteen Dollars ($15.00) therefor. Such person shall, on the first day of each month, make a written report to the State Fish and Game Warden, of all the articles of game, the kind and number of each, by whom owned, and the residence of owner, received during the past month, also of all the articles of game shipped and to whom and where shipped during the last month; also the amount and kind of each on hand on the last day of the month, and by whom owned and owner's address. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be punished accordingly, and in all cases of conviction their licenses shall be revoked.

Fee.

Penalty.

Section 25. That Section 3753 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Fines and penalties disposal of.

"3753. DISPOSITION OF FINES, BONDS AND PENALTIES. All fines, bonds, and penalties mentioned in any section of this Act may be collected by civil action in the name of the State of Montana in any court of competent jurisdiction upon proper complaint being filed, and the amount of all fines and bonds collected under the provisions of this Act shall be paid to the State Game Warden, and by him paid to the State Treasurer and by him placed to the credit of the fund to be known as the

HeinOnline -- 1923 224 1923

Fish and Game Fund. All such fines, bonds and costs shall be collected without stay of execution, and the defendant, or defendants, may by order of the court be confined in the county jail of the county until such fine and costs are served out at the rate of $2.00 per day.

Section 26. That Sections 3686 and 3752 of the Revised Codes of Montana of 1921, be and the same are hereby repealed.

Section 27. That all Acts and parts of Acts in conflict with any one of the above amendments are hereby repealed.

Section 28. This Act, unless otherwise herein specified shall take effect and be in full force from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 78.

An Act to Amend Section 210 of the Revised Codes of Montana of 1921, Prescribing the Duties of the State Examiner and His Assistants.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 210 of the Revised Codes of Montana of 1921, be and the same is hereby amended so as to read as follows:

"210. DUTIES OF STATE EXAMINER. The duties of the State Examiner and his assistants are:

Examination of accounts.

1. To examine at least once in each year the books and accounts of the state treasurer, state auditor, secretary of state, clerk of the supreme court, state game warden, register of state land office, and all other state officers having the collection or handling of state money, county treasurers, county clerks, county assessors, district court clerks, county auditors, sheriffs, public administrators, boards of county commissioners of each county, and all other officers and boards whether temporary or permanent, however created and for whatever purpose, having the control, management, collection or disbursement of any public moneys of any character or description.

Prescribes methods of auditing.

2. To prescribe the general methods and details of accounting for the receipt and disbursement of all moneys belonging to the counties, cities, towns, or school districts,

HeinOnline -- 1923 225 1923

and the educational, charitable, penal, and reformatory institutions of the State of Montana, and to establish in all such offices such general methods and details of accounting as are required by law or are prescribed by the State Examiner, and all County, city, town or school district officers, and officers of educational, charitable, penal and reformatory institutions of the State of Montana are hereby compelled to conform therewith.

Examination of state institutions.

3. To examine at least once each year the books and accounts of the treasurer and secretary of each and all of the educational, charitable, penal and reformatory institutions of the State of Montana, and to examine into the financial affairs and conditions of each and all of said institutions.

Examination of officers.

4. To visit each and every office of the officers, boards and institutions named in this Act at least once in each year; and at such time to examine the books, accounts and vouchers in said office, to verify statements of receipts and expenditures, and indebtedness, and to examine and pass upon the character and amounts of any commissions, percentage, or charges for services, exacted by any officer, and of all claims allowed by any of said officers, boards or institutions.

Examination of banks and loan companies.

5. To visit twice each year, or oftener, without previous notice, each of the banks, banking corporations and savings banks, building and loan associations, investment and loan companies incorporated under the laws of this state, or doing business under any law of the state concerning corporations, and to examine into their affairs and ascertain their financial condition; to inspect and verify the value and the amount of their securities and assets, and to inquire into any violation of laws governing such banks, institutions, building and loan associations.

Report.

6. The State Examiner, after examination of the affairs of any state officer, board, or institution, or board of county commissioners, must make report to the governor and to the attorney general of the result of such examination, within sixty days thereafter; and if any violation of law or non-performance of duty is found on the part of any such officer or board, they must be proceeded against by the attorney general or county attorney as provided by law.

Proceedings against officers.

Report of examination county officers.

7. The State Examiner, or his assistants, after the examination of the affairs of any county officers, must make report of such examination to the board of county

HeinOnline -- 1923 226 1923

commissioners and to the county attorney of such county, within thirty days after such examination; and if any violations of law or non-performance of duty is found on the part of any county officer or board, such officer or board must be proceeded against by the county attorney of the county as provided by law.

Annual report to governor.

8. The State examiner must make an annual report to the governor immediately after the end of each fiscal year, but such report must not be printed unless the printing thereof be ordered by the state board of examiners.

County attorneys to report prosecutions.

9. It shall be the duty of the County Attorneys of the various counties of the State of Montana and the City Attorneys of the various cities and towns of the State of Montana to make report to the State Examiner within thirty days after receiving from the State Examiner the report of any examination of any County, City or Town, as to what proceedings he has instituted or is intending to institute relating to violations of law and non-performance of duty, as set forth in the report of the State Examiner.

County attorney's pay withheld when.

10. If any County or City Attorney refuses or neglects to notify the State Examiner within thirty days after receiving the report of any examination of any county, city or town, as to what proceedings he has instituted or is about to institute against any officer for violations of law or non-performance of duty, as evidenced by matters of record, and as set forth in the State Examiners Report; the State Examiner may withhold the salary of such County or City Attorney by filing notice with the proper officials; until proper and satisfactory explanation has been made to the State Examiner for such non-performance of duty, "provided further, that should the County or City Attorney fail or refuse to prosecute such cases, the State Examiner may employ an attorney to prosecute such case at the expense of the County, City, or Town."

Employment attorney.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after the 30th day of June 1923.

Approved March 6, 1923.

HeinOnline -- 1923 227 1923

CHAPTER 79.

An Act to Amend Section 4811 of the Revised Codes of Montana, 1921, Relating to the Duties of County Clerks.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4811 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Duties of county clerk.

"Section 4811. DUTIES OF THE COUNTY CLERK. The County Clerk must:

"1. Take charge of and safely keep, or dispose of according to law, all books, papers, and records which may be filed or deposited in his office;

"2. Act as Clerk of the Board of County Commissioners;

"3. Draw warrants on the County Treasurer in favor of all persons entitled thereto in payment of all claims and demands chargeable against the county, which have been legally examined, allowed, and ordered paid by the Board of County Commissioners; also for all debts and demands against the county, when the amounts are fixed by law, and which are not directed to be audited by some other person or tribunal; which warrants shall be signed by the County Clerk and the Chairman of the Board of County Commissioners, excepting warrants drawn on the Redemption Fund;

"4. He must keep accounts current with the Treasurer, and when any person deposits with the County Treasurer any money paid into the treasury, the County Clerk shall be furnished by the Treasurer with a duplicate of the receipt issued to such person, which duplicate receipt shall be filed in the office of the County Clerk, and such County Clerk shall charge the Treasurer with the amount thereof.

"5. Make the annual statement as prescribed in Section 4814 of this Code."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

HeinOnline -- 1923 228 1923

CHAPTER 80.

An Act Fixing the Charge to Be Allowed to Any State or County Officer for the Use of Automobile When Necessarily Used in the Performance of His Official Duty.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whenever it shall be necessary for any state or county officer to use his own automobile in the performance of any official duty where traveling expense is allowed by law, such officer shall receive not to exceed twelve and one-half cents per mile for each mile necessarily traveled unless otherwise specifically provided by law and the members of any lawful approving board shall be liable upon their official bonds, for any claim which they may allow in excess of such amount. Provided, further, that in no case shall an automobile be used as herein provided if suitable transportation can be had by railroad.

Amount of mileage specified.

Proviso.

Section 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 81.

An Act Providing the Method of Collection of Any Special Poll Tax and Prescribing the Duties of Certain County Officers in Connection Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whenever any special poll tax shall be imposed as provided by the laws of this state, whether for road, poor or any other purpose, it shall be the duty of the county clerk to have suitable receipts for the same printed and to deliver said receipts to the county treasurer charging him with the same and it shall be the duty of the county treasurer to proceed to collect such poll tax as provided by law. The receipts herein provided for shall be bound in book form and shall be printed and written in triplicate. One copy of such receipt shall be delivered to the person paying the tax, one copy of each and all receipts shall be turned over to the County Clerk at the end of each month to be preserved in his office; and one copy of each and all such receipts shall

Collection special poll tax.

Receipts.

HeinOnline -- 1923 229 1923

be permanently preserved in the office of the treasurer.

Section 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 82.

An Act to Amend Section 4874 of the Revised Codes of Montana of 1921 Relating to the Authority of the County Commissioners to Fix Compensation and Appointment of Deputy County Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4874 of the Revised Codes of Montana of 1921, be, and the same is hereby amended to read as follows:

County commissioners to fix number and salary of deputy county officers.

"Section 4874. That the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant under this Act; provided, the salary of no deputy or assistant shall be more than eighty per cent of the salary of the officer under whom such deputy or assistant is serving, unless otherwise provided by law; where any deputy or assistant is employed for a period of less than one year the compensation of such deputy or assistant shall be for the time so employed; provided, the rate of such compensation shall not be in excess of the rates now provided for by law for similar deputies or assistants; said boards of county commissioners shall likewise have the power to fix and determine the number of deputy county officers and allow to several county officers a greater or less number of deputies or assistants, than the maximum number allowed by law, when in the judgment of the board of county commissioners of such greater or less number of deputies is or is not needed for the faithful and prompt discharge of the duties of any county office.

Section 2. That all Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

HeinOnline -- 1923 230 1923

CHAPTER 83.

An Act to Amend Section 12433 of the Revised Codes of Montana of 1921, Relating to the Disposition of Fines, Costs and Forfeitures of All Courts Except Police Courts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 12433 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

"Section 12433. FINES, COSTS AND FORFEITURES, HOW DISPOSED OF. All fines and forfeitures collected in any court, except police courts, must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture incurred; and after such costs are paid, the residue must be paid to the county treasurer of the county in which the court is held and if not otherwise provided by law, by him credited to the general school fund of said county; and at the time of payment of any such fine or forfeiture there shall be filed with the county treasurer, a complete statement showing the total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred by the county in such action, which statement shall give the title of the cause and be subscribed by the person or officer making such payment."

Fines and costs how disposed of.

Statement to be filed.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

CHAPTER 84.

An Act to Amend Sections 6071 and 6074 of the Revised Codes of Montana of 1921, Relating to Reports of State Banks to the Superintendent of Banks.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6071 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

"Section 6071. REPORT TO SUPERINTENDENT OF BANKS. Every bank shall make to the Superintendent

Banks to make reports.

HeinOnline -- 1923 231 1923

of Banks regular call reports according to the form which may be prescribed by him, verified by the oath or affirmation of the president, vice-president, or cashier of such bank and attested by the signature of at least two of the directors other than the subscribing officer. Each such report shall exhibit in detail, and under appropriate schedules, the resources and liabilities of the bank at the close of business on any past day by him specified; and shall be transmitted to the Superintendent of Banks within seven days after the receipt of a request or requisition therefor from him, and in such form as may be required by the Superintendent of Banks, it shall be published as soon as possible in a newspaper published in the place where such bank is established, or if there be no newspaper in the place, then in one published nearest thereto in the same county, at the expense of the bank; and such proof of the publication shall be furnished at such times and in such manner as may be required by the Superintendent of Banks.

Contents.

Publication.

Section 2. That Section 6074 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Superintendent to call for reports.

"Section 6074. SUPERINTENDENT OF CALL FOR REPORTS. The Superintendent of Banks shall call for the reports specified in Section 6071 of this Code at least three times each year. The "past day specified" by the Superintendent of Banks, under the provisions of said section, shall be on the day designated by the Comptroller of Currency of the United States for reports of national banking associations."

Section 3. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 85.

An Act Amending Section 182 of the Revised Codes of Montana of 1921 Relating to the Depositing of Funds in the Hands of the State Treasurer; and Providing for the Security to Be Delivered by the Banks Designated as Depositories by the State Depository Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 182 of the Revised Codes of Montana of 1921 be, and the same hereby is amended to read as follows:

HeinOnline -- 1923 232 1923

"The State depository board shall designate as depositories as many banks within the State as in its judgment are necessary for the safe keeping of the public moneys in the hands of the State Treasurer, as hereinafter directed; provided, that all banks so designated shall undertake and agree, as a condition precedent to the deposit of any funds in such bank, that interest shall be paid upon the daily balances of all such deposits at a rate prescribed by the said board, which shall not be less than two and one-half per cent. per annum, and all deposits shall be adequately and properly secured to the treasurer as herein specified. No deposits shall be made of State funds by such depository board, nor by the State Treasurer under the direction of said board, unless such bank shall first have delivered to the State Treasurer as security thereof bonds of the United States, or of the State of Montana, or county, school or municipal bonds, or registered warrants of the State of Montana or of counties of the State of Montana, in at least an amount equivalent to the amount of such deposit, or the bond of some good surety company authorized to do business in the State of Montana in at least the amount of such deposit, which bonds, warrants, or security shall first be approved by the State depository board; provided, that the State depository board may require security in a greater amount than that above named. No deposit of said funds shall be made or permitted to remain in any bank unless such bank shall have first been designated as a depository by said state board, nor until the security for the deposit shall have first been deposited with the treasurer and been approved by the State depository board. In designating the depositories for state funds, the state depository board shall, as near as may be found practicable, make designation of depositories in the respective counties of the state, and cause to be deposited in them public funds proportionate to the amount of public revenue received from such counties by the state. All interest paid and collected on deposits shall be by the state treasurer credited to the general fund of the state. The state depository board shall have the power of directing the withdrawal by the state treasurer of all moneys from any bank for any reason. When moneys shall have been deposited, under the direction of said depository board, and in accordance with the law, the treasurer shall not be liable for loss on account of any such deposit occurring through damage by the elements, or for any other cause or reason occasioned through

Depositories how designated.

Securities.

Conditions of deposit.

Interest.

Liability of treasurer.

HeinOnline -- 1923 233 1923

means other than his own neglect, fraud, or dishonorable conduct. It shall be the duty of the state treasurer to deposit funds in such bank, and in such amounts, as may be designated by the state depository board, and to withdraw such deposits when instructed so to do by the said board; provided, that the state treasurer shall at all times keep a cash reserve in state depositories provided for by this ACT, of at least fifteen per cent. of all state funds, and no permanent investment shall be permitted which will in any manner impair said reserve. But such treasurer shall have the authority, either with or without the direction of said state board, to withdraw all of such deposits, or any part thereof, from time to time, to pay and discharge the legal obligations of the state duly presented to him in accordance with the law, except as above. Nothing herein shall be construed as limiting or impairing the right of the state board of land commissioners to invest public moneys in bonds or other securities as otherwise provided by law."

Cash reserve.

Proviso.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This ACT shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 86.

An Act to Provide for the Investment of the Sinking Funds of Counties, Cities and Towns; Prescribing the Kinds of Securities in Which Such Funds Shall Be Invested; and Regulating the Investment of Such Sinking Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Bond sinking funds, how invested.

Section 1. That the Board of County Commissioners of any County of the State of Montana and the Council of any City or Town of the State of Montana, shall have the power and authority and shall invest so much of the bond sinking fund of any such county, city or town, as is not needed for the payment of interest coupons, in United States government bonds or securities, state bonds or securities, county or city bonds, or other bonds or securities which are supported by general taxation, except irrigation bonds, provided however that all of such investments must first be approved by the State Examiner and

HeinOnline -- 1923 234 1923

that said bonds or securities must be due and payable at least ninety days before the obligations for which such bonds were raised, shall become due and payable. Such bonds and security shall be in the custody of such county, city or town treasurer, and be held by him for the use and benefit of such county, city or town as the case may be. It shall be the duty of such Treasurer to properly protect such securities by insurance, the use of safety deposit boxes, or other means, the expense of which shall be a proper charge against the particular county, city or town. All moneys derived from interest on sinking fund investments as herein authorized, shall be credited by the treasurer of such county, city or town, to the same sinking fund from which the investment was made.

Safety deposit boxes.

Section 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 87.

An Act to Establish a Game Preserve in Portions of Powell and Flathead Counties, for the Protection of Game Animals and Birds, to Be Known as "The Spotted Bear Game Preserve," and Providing Penalties for the Killing, Hunting, Trapping and Pursuing Any Game Animals or Birds in Such Preserve.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the better protection and propagation of game animals and birds, the following described area in Powell and Flathead Counties, State of Montana, is hereby set aside and established as a State Game Preserve, to be known as the Spotted Bear Game Preserve:

Spotted Bear Game Preserve in Powell and Flathead counties.

Beginning at the mouth of Cayuse Creek where it flows into the South Fork of the Flathead River, in Powell County; running thence up Cayuse Creek to the summit of the continental Divide; thence North along the Continental Divide to a point opposite Pentagon Mountain, in Flathead County; thence down Pentagon Creek to its confluence with Spotted Bear Creek; thence down Spotted Bear Creek to the South Fork of the Flathead River; thence southerly up the west bank of the South Fork of the Flathead River to the point of beginning.

Boundaries.

HeinOnline -- 1923 235 1923

Unlawful to hunt or trap within preserve.

Section 2. It shall be unlawful for any person to hunt for, trap, capture, kill or take or cause to be hunted for, trapped or killed any game animal or birds of any kind whatever, within the limits of said Preserve; or to discharge any fire arms, or to create any unusual disturbance tending to, or which may frighten or drive away any of the game animals or birds, or to chase the same with dogs or bounds in said Preserve; provided, however, that permits to capture animals or birds for the purpose of propagation, or for scientific purposes, or to destroy mountain lions, wolves, foxes, coyotes, wild cats, mink, or other predatory animals or birds, may be issued by the State Game Warden, upon the payment of such fee, and in accordance with such regulations as may be established for said Preserve by the State Game and Fish Commission. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Twenty five ($25.00) Dollars, nor more than One hundred ($100.00) Dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

Permits issued by game warden.

Penalty.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 88.

An Act to Amend Section 6105 of the Revised Codes of Montana of 1921 Relating to Compensation and Expenses of the State Examiner.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6105 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Fee and expenses of Examination.

"Section 6105. Compensation and Expenses of State Examiner. The actual and necessary expenses and the sum of Ten ($10.00) Dollars per day shall be allowed the State Examiner for the performance of the duties imposed by this Act, which shall be paid in full by such bank under investigation for time actually spent in making such investigation, and in going to and returning therefrom: provided, however, that such sums paid the State Examiner shall be paid by him to the State

Disposal of same.

HeinOnline -- 1923 236 1923

Treasurer for the credit of the Current Departmental Appropriation."

Section 2. That Section 6080 of the Revised Codes of the State of Montana of 1921 be and the same is hereby amended to read as follows:

"Section 6080. The expenses of traveling, hotel bills, and time actually spent by the office of the Superintendent of Banks in performance of the duties imposed by Section 6079, shall be paid in full by the bank to the State Treasurer for the credit of the Current Departmental Appropriation," and that the title of the bill be amended to include Section 6080 of the Revised Codes of Montana, 1921.

Payment of Expenses of superintendent.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 89.

An Act to Amend Section 4767 of the Revised Codes of Montana of 1921, Relating to the Deposit of County Funds, and Repealing Section 5036 of the Revised Codes of Montana of 1921, Relating to the Deposits of City and Town Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4767 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

"4767. Deposit of Public Funds. It shall be the duty of all county, city and town treasurers to deposit all public moneys in his possession and under his control in any solvent bank or banks located in the county, city or town of which such treasurer is an officer, subject to national supervision or state examination as the board of county commissioners, in the case of a county, or of the council, in the case of a city or town, may designate, and no other. The sums so deposited shall bear interest at the rate of not less than two and one-half per centum per annum, payable quarter-annually. The treasurer shall take from such banks such security as the board

Deposit of city and town funds.

Interest.

Security.

HeinOnline -- 1923 237 1923

of county commissioners, in the case of a county, or the council, in the case of a city or town, may prescribe, approve and deem fully sufficient and necessary to insure the safety and prompt payment of all such deposits on demand together with the interest thereon. Such securities shall consist of bonds of some surety company empowered to do business in the State of Montana, government bonds or securities, state bonds or warrants, county bonds or warrants, or such other bonds or securities which are supported by general public taxation, (or personal bonds) provided, however, that all such personal bonds must be accompanied by a sworn statement of the resources and liabilities of each of the sureties thereon. All warrants or other negotiable securities must be properly assigned or endorsed making the same payable to the county, city or town treasurer, as the case may be, and to the State of Montana. It shall be the duty of the board of county commissioners in the case of county funds, or the council in the case of the funds of a city or town, upon the acceptance and approval of any of the above mentioned bonds or securities, to make a complete minute entry of such acceptance and approval upon the record of their proceedings.

Record of securities.

Division of deposits among local banks.

When more than one bank is available in any county, for the deposit of county funds, or in any city or town for the deposit of city or town funds, such deposits shall be distributed ratably among all of such banks qualifying therefor, substantially in proportion to the paid-in capital and surplus of each such bank willing to receive such deposits under the terms of this act, and it shall be the duty of said county, city or town treasurer to prorate all such deposits among all the banks qualified to receive the same as in this act provided, to the end that an equitable distribution of such deposits shall be maintained. Whenever it shall come to the attention of the State Examiner that the funds of any county, city or town are not properly distributed as provided in this act, the State Examiner shall order the treasurer of such county, city or town to distribute said funds in accordance herewith, and if such treasurer shall refuse or neglect to comply with such order it shall be the duty of the State Examiner to institute proceedings against such treasurer at the cost of the county, city, or town of which such treasurer is an officer, on the official bond of such treasurer. If no such bank exists in the county, city or town, or if any bank or banks

HeinOnline -- 1923 238 1923

existing therein fails or refuses to qualify under the terms of this act to receive such deposits, then and in such case, or in either of such cases, such moneys, or any portion thereof, shall be deposited under the terms of this act in the bank or banks most convenient to such county, city or town, willing to accept such deposits under the terms of this act, and qualified as above provided. Any bank or banks receiving such deposits, shall, through its president and cashier, make a statement quarter-annually of account, under oath, showing all such moneys that have been deposited with such bank during the quarter, the amount of daily balances in dollars, and the amount of interest by such bank, or banks credited or paid therefor, and showing that neither such bank, nor any officer thereof, nor any person for it, has paid or given any consideration or emolument whatsoever to the treasurer or to any other person other than the interest provided for herein, for or on account of the making of such deposits with any such bank. All such deposits shall be subject to withdrawal by the treasurer in such amounts as may be necessary from time to time, and no deposit of funds shall be made, or permitted to remain in any bank, until the security for such deposits shall have been first approved by the board of county commissioners in the case of county funds, or of the council in the case of city or town funds, and delivered to the treasurer. All interest paid and collected on such deposits shall be credited to the general fund of the county, city or town to whose credit such funds are deposited. Where moneys shall have been deposited in accordance with the provisions of this act, the treasurer shall not be liable for loss on account of any such deposit that may occur through damage by the elements, or for any other cause or reason occasioned through means other than his own neglect, fraud, or dishonorable conduct."

Quarterly statement of banks.

Withdrawals.

Disposal of interest.

Liability of treasurer.

Section 2. Section 5036 of the Revised Codes of Montana of 1921 and all Acts or parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

HeinOnline -- 1923 239 1923

CHAPTER 90.

An Act Amending Sections 6062 and 6081 of the Revised Codes of Montana of 1921, Relating to Banks and Banking and Enacting and Adding to Chapter 13 of Part III of the Civil Code of the Revised Codes of Montana of 1921, to Be Known and Designated as Sections 6014a, 6109a, 6109b, 6109c, 6109d, 6109e, 6109f, 6109g, 6109h, and 6109i, Defining Certain Words Used in Such Code, Providing for the Voluntary Liquidation and Consolidation of Banks, Prescribing Certain Powers, Duties and Liabilities of Banks, Their Officers and Directors, and Granting Certain Powers to the Superintendent of Banks.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby enacted and added to Chapter 13 of Part III of the Civil Code of the Revised Codes of Montana of 1921, a new Section numbered and designated as Section 6014a, as follows:

Definitions.

Section 6014a. DEFINITIONS. The following definitions shall be applied to the terms used in this Chapter:

"Capital"

1. The terms Capital, Capital Stock or Paid-in-Capital means that fund for which Certificates of Stock are issued to stockholders in case of incorporated banks and that fund set aside and dedicated for capital purposes in case of private banks.

"Surplus"

2. The term "surplus" means a fund paid in or created pursuant to the provisions of Section 6048, Revised Codes of 1921 of this Act by a bank from its net earnings or undivided profits, which when set apart and designated as such is not available for the payment of dividends and cannot be used for the payment of expenses or losses so long as such bank has undivided profits.

"Undivided profits"

3. The term "undivided profits" means the credit balance of the profit and loss account of any bank.

"Profit and loss acct."

4. The term "Profit and Loss Account" or "Profit and Loss" means that account carried on the books of the bank into which all earnings, accounts and recoveries are closed thus exhibiting "gross earnings" and against which all loss and other disbursement items are charged revealing "net earnings" which are then properly closed to "Undivided Profits Account" or "Undivided Profits," out of which dividends are paid and reserves set aside.

"Net earnings."

5. The term "net earnings" means the excess of the gross earnings of any bank over expenses and losses

HeinOnline -- 1923 240 1923

chargeable against such earnings during any one year.

"Time Deposits" 6. The term "time deposits" means all deposits the payment of which cannot legally be required within thirty days.

"Demand deposits." 7. The term "demand deposits" means all deposits the payment of which can legally be required when demanded.

"Unincorporated banks." 8. The term "unincorporated bank" shall comprehend "Private Bank," and shall include every unincorporated person, firm, or association transacting banking business in this state, and the term "board of directors" shall include the owner or owners of such banks.

"Consolidate" 9. The words "consolidate" and "merge" shall be deemed to mean the same thing and may be so used interchangeably in this Act without loss of power. When the word "Superintendent" is used in this Act, the title "Superintendent of Banks" is deemed to be meant.

"Superintendent"

Insolvency defined. 10. A bank is insolvent within the meaning of this chapter when all of its capital surplus, and undivided profits are absorbed in losses and the remaining assets will not be sufficient to pay and discharge its contracts, debts and engagements.

Section 2. That Section 6062 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Real estate loans, limitation. Section 6062. LIMITATION OF LOANS ON REAL ESTATE. No commercial bank shall, except for the purpose of facilitating the sale of property owned by the bank, make any loan on the security of real estate, unless it is a first lien and does not exceed fifty per centum of the market value of the real estate taken as security.

No commercial bank shall loan in the aggregate more than twenty-five per centum of its assets on real estate loans of the character specified in this section.

Exception. These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust thereon, when it already holds a first mortgage or deed of trust on such real estate, nor from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when, in the judgment of the directors of such bank, such subsequent liens are neces-

HeinOnline -- 1923 241 1923

sary further to secure the payment of any debts and save such bank from loss; provided, the term "Commercial Bank" as used in this section shall mean a bank organized to do the business specified in Section 6017 Revised Codes of 1921, of this Act, only.

Section 3. That Section 6081 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Insolvent banks not to receive deposits.

Section 6081. DEPOSITS IN INSOLVENT BANK. Whenever any bank shall be insolvent in the manner described and set forth in Sub-Section 10 of Section 1 of this Act, such bank shall not accept or receive on deposit any money, bank bills, or notes, United States treasury notes or currency, or other notes, bills, or drafts circulating as money or currency, or transact any other business in connection with its operations, except as trustee for the depositors and parties transacting business with them, and it or they shall keep all such deposits of money, bills or notes, or United States treasury notes or currency, or other notes, bills, or drafts circulating as money or currency, separate and apart from the general assets of the bank, from and after the date of the accrual of such insolvency, and when such insolvency has been made good, such deposits received in trust may be transferred to the general assets of the banks on and by written consent of the Superintendent of Banks; provided, that in the event such insolvency be not made good then any and all such trust deposits shall be returned to the depositors making them; provided further, that any officer, director, cashier, manager, member, partner or managing partner thereof, who shall knowingly accept or receive, be accessory to, or permit or connive at the receiving or accepting of such trust deposits, except in the manner hereinbefore set forth in this section, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding ten thousand dollars, or imprisonment in the state prison not exceeding five years, or by both fine and imprisonment as aforesaid.

Penalty.

Section 4. That there are hereby enacted and added to Chapter 13 of Part III of the Civil Code of the Revised Codes of Montana of 1921, the following sections to be numbered, known and designated as Sections 6109a, 6109b, 6109c, 6109d, 6109e, 6109f, 6109g, 6109h, and 6109i, as follows:

HeinOnline -- 1923 242 1923

Rules and regulations.

Section 6109 a. SUPERINTENDENT TO MAKE RULES AND REGULATIONS—VIOLATION OF SAME BY BANKS. The Superintendent of Banks shall have power to adopt and promulgate uniform rules and regulations to govern the examination and reports of banks and prescribe the form in which such banks shall report their assets, liabilities and reserves.

Special Examination.

Section 6109 b. SPECIAL EXAMINATION DEFINED. Any examination made by the Superintendent of Banks otherwise than in the ordinary routine of the department and because in his opinion the condition of the bank requires such examination, and every examination made at the request of the board of directors or stockholders of any bank shall be deemed a special examination.

Examination at request of directors.

Section 6109c. EXAMINATION AT REQUEST OF DIRECTORS. When requested in writing, upon the authority of a majority of the board of directors of any bank to make an examination of such bank the Superintendent of Banks shall do so.

Assessments for impairment.

Section 6109d. ASSESSMENT ON CAPITAL STOCK TO MAKE GOOD IMPAIRMENT. (1) Whenever the Superintendent of Banks shall determine that an impairment of capital exists in any bank, and his decision shall be concurred in by the Governor and the Attorney General, he shall notify the Board of Directors of such bank by written notice that such impairment exists, stating the amount thereof in dollars and percentage of the capital stock thereof, and order such Board to make good such impairment within ninety days from date of such notice.

Special meeting to be called.

The Board of Directors shall upon receipt of notice convene and pass a resolution reciting the receipt of such notice of impairment and calling a special meeting of the stockholders of the bank for a day certain in the manner provided in their by-laws. The Superintendent of Banks shall also forward by registered mail a similar notice to each stockholder of record of such bank.

Notice.

Stockholders resolution.

The stockholders, when assembled as herein provided, shall pass a resolution reciting the facts of receipt of notice from the Superintendent, notice of impairment and notice of meeting, and assessing themselves by assessing the stock of record, payment of which assessment must be made within the time limit specified by the

HeinOnline -- 1923 243 1923

Superintendent of Banks as provided in notice of impairment.

Sale of stock for unpaid assessments.

If there be any stock remaining on which the assessment is not paid as hereinabove provided, the same or such part thereof as is necessary to pay the assessment shall be sold by the Board of Directors acting through the Cashier or Secretary thereof, at public or private sale as appears best for all concerned, on a day certain, not less than thirty days after the day fixed for payment of assessment hereinabove provided, notice of time and place of which sale shall be given by registered mail to the stockholders by the Board through its Cashier or Secretary at least ten days prior to the date thereof and such sale of stock as herein provided for shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void in the hands of the stockholder, his assigns or pledgees, and the new certificate shall be issued by the bank to the purchaser thereof, for the number of shares purchased, and a new certificate issued to the stockholder of record and delivered to him or any pledgee or assignee thereof for the remaining shares, if any, and the record of the original certificate sold shall be marked cancelled on the books of the bank and such record thereof shall be prima facie evidence of the regularity of the proceedings for the sale of said stock.

Notice of sale.

Suit for deficiency.

(2.) If the said stock does not sell for sufficient to pay the assessment thereon, the Board of Directors may proceed by suit in the name of the corporation to collect the deficiency from the record holder, whose stock has been thus sold for the assessment."

Voluntary liquidation procedure.

Section 6109e. VOLUNTARY LIQUIDATION. A bank may go into voluntary liquidation and be closed by the vote of its stockholders owning two-thirds of its stock of record voted at a special meeting called for that purpose. When a vote to go into voluntary liquidation is so taken, the Board of Directors shall cause notice of such fact to be certified under seal of the bank, by its president or vice-president and secretary, treasurer or cashier, to the Superintendent of Banks, together with certified copies of all proceedings had by directors and stockholders of such bank, which such stockholders' proceedings shall set forth that stockholders owning at least two-thirds of the capital stock voted in favor of placing

HeinOnline -- 1923 244 1923

the bank in liquidation and shall also set forth the reasons for placing the bank in liquidation. Such bank shall make a report to the Superintendent of Banks, at least once each sixty days from and after the date when the bank ceased to transact business as such, which report shall give a list of assets wholly or partially realized upon, together with the amount of each so remaining uncollected, and also a list of the liabilities retired by application of such amount so realized. The Superintendent of Banks shall have power to examine into the affairs of the banks so liquidated, at any time, to determine whether the rights of creditors and depositors are being protected, and if at any time he finds that such liquidation is being improperly conducted, or that the interests of the depositors and creditors are not being properly protected, he may upon the order of the Governor and Attorney General as in other cases, forthwith take possession of the property and business of such bank and complete the liquidation thereof in the same manner as is provided in case of involuntary liquidation. The expenses of such examination shall be paid by such bank. Such bank shall immediately publish notice in a newspaper published in the place in which such bank is located, and if none is there published, then in the place nearest thereto, that is closing up its affairs and notifying creditors to present their claims against the bank for payment. Such notice shall be published for four consecutive weeks."

Report by banks.

Superintendent may take possession.

Section 6109f. CONSOLIDATION OF BANKS. Any two or more banks may, with the approval of the Superintendent of Banks, consolidate into one bank under the charter of either existing bank, on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each bank proposing to consolidate, and be ratified and confirmed by the vote of the shareholders of each such bank owning at least two-thirds of its capital stock outstanding, at a meeting to be held on the call of the directors, after sending notice to each shareholder of record by registered mail at least ten days prior to said meeting: Provided, that the stockholders may unanimously waive such notice and may consent to such meeting and consolidation in writing. Provided also, that the capital stock of such consolidated bank shall not be less than that required under existing law for the organization of a bank of the class of largest consolidating bank.

Consolidation of banks, procedure.

Notice to stockholders.

HeinOnline -- 1923 245 1923

Transfer to surviving bank.

The assets and liabilities of the consolidated banks shall be reported by the surviving bank. All the rights, franchises, and interests of the said bank so consolidated in and to every species of property, real, personal and mixed and choses in action thereto belonging, shall be deemed to be transferred to and vested in such bank into which it is consolidated without other instrument of transfer, and the said consolidated bank shall hold and enjoy the same and all rights of property, franchises, and interests in the same manner and to the same extent as was held and enjoyed by the bank so consolidated therewith, provided, however, that merging bank shall transfer to the surviving bank all of its real property by good and sufficient deed of conveyance and for that and other purposes shall remain a body corporate for a period of at least three years after merger and shall not then dissolve without the approval of the Superintendent of Banks.

Taxes, how assessed.

Section 6109g. TAXES ON BANKS WHICH HAVE CEASED TO DO BUSINESS AS BANKS. Whenever any bank ceases to do business as a bank no taxes shall be levied or collected in accordance with the laws governing the assessment of banks, but its property shall be assessed in accordance with the laws governing the assessment of similar property of private corporations."

Attachment prohibited.

Section 6109h. ATTACHMENTS PROHIBITED. No property owned by any bank, organized under the laws of the State of Montana shall be subject to attachment.

Reorganization plans.

Section 6109i. When any bank shall for any reason become suspended and be taken in charge by the superintendent of banks or his deputy or liquidating agent pursuant to law and with a view to reinstating it to solvency, a reorganization plan and articles of agreement shall be executed in writing by deposit creditors thereof representing eighty per centum (80%) of the amount of the deposits of such bank, all other depositors shall be held to be subject to such agreement and all and every of the terms thereof to the same extent and with like effect as if they had joined in the execution thereof, and their claims shall be treated in all respects as if they had joined in the execution of the articles of reorganization in event of restoring same to solvency and reopening it for business.

Section 5. That all Acts and parts of Acts in conflict herewith are hereby repealed.

HeinOnline -- 1923 246 1923

Section 6. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 91.

An Act to Establish a Game Preserve in a Portion of Mineral County, for the Protection of Game Animals and Birds, to Be Known as Little St. Joe Game Preserve, and Providing Penalties for the Killing, Hunting, Trapping and Pursuing Any Game Animals or Birds in Such Preserve, or the Carrying of Fire-arms Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the better protection and propagation of game animals and birds, the following described area in Mineral County, State of Montana, is hereby set aside and established as a State Game Preserve, to be known as the Little St. Joe Game Preserve.

Little St. Joe Game Preserve. in Mineral county.

Beginning at a point on the West bank of the Missoula River where the Divide between Dry Creek and Oregon Creek intersects said river bank; running thence westerly along said Divide to the summit of the Bitter Root Range, which is the line between Montana and Idaho; thence northwesterly along the summit of said Bitter Root Range to a point where the Divide between Little St. Joe Creek and Two Mile Creek intersects said range; thence northerly along said Divide between the Little St. Joe Creek and Two Mile Creek to a point where said Divide intersects the West Bank of the St. Regis River; thence down the West bank of the St. Regis river to its confluence with the Missoula river; thence up the South bank of the Missoula river to the point of beginning.

Boundaries.

Section 2. It shall be unlawful for any person to hunt for, trap, capture, kill or take or cause to be hunted for, trapped, or killed any game animal or birds of any kind whatever, within the limits of said Preserve; or to carry or discharge any fire-arms, or to create any unusual disturbance tending to, or which may frighten or drive away any of the game animals or birds, or to chase the same with dogs or hounds in said Preserve; provided, however, that permits to capture animals or birds for the purpose of propagation, or for scientific purposes, or to destroy mountain lions, wolves, foxes, coyotes, wild cats, mink or other predatory animals or birds, or for carrying fire-arms, may be issued by the State Game Warden, upon the

Unlawful to hunt in.

Proviso.

HeinOnline -- 1923 247 1923

payment of such fee, and in accordance with such regulations as may be established for said Preserve by the State Game and Fish Commission. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Twenty-five ($25.00) Dollars, nor more than One Hundred ($100.00) Dollars, or by imprisonment in the County Jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

Penalty.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 92.

An Act to Amend Section 4751 of the Revised Codes of Montana of 1921, Relating to the Receipt for Money by the County Treasurer.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4751 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"Section 4751. When any money is paid to the County Treasurer, he must issue a receipt for such money in triplicate, the original of which shall be delivered to the person paying the same, the duplicate of which shall be delivered to the county clerk and the triplicate shall be retained in his office."

Triplicate receipt to issue.

Section 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

CHAPTER 93.

An Act to Amend Sections 217 and 221 of the Revised Codes of Montana, 1921, Relating to the Fees of the State Examiner.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 217 of the Revised Codes of Montana, 1921, be, and the same is hereby amended to read as follows:

HeinOnline -- 1923 248 1923

Fees to be paid to state examiner's fund.

Section 217. On or before the first day of June of each year each city or town of the State shall pay into the State Examiner's Fund for the use and benefit of the General Fund the following amounts:

Cities of the first class, two hundred and fifty dollars.

Cities of the second class, two hundred dollars.

Cities of the third class having a population of less than eighteen hundred, seventy-five dollars.

Cities of the third class having a population over eighteen hundred, one hundred dollars.

Towns having a population of over seven hundred, thirty-five dollars.

Towns having a population of less than seven hundred, twenty-five dollars.

Examination of school districts when.

The State Examiner shall examine the books and accounts of the School Districts of the First and Second Classes upon receiving a request signed by a majority of the Board of Trustees of such District; said school district upon making the request for such examination shall pay the State Treasurer the following amounts:

School Districts of the First Class, one hundred and fifty dollars.

School Districts of the Second Class, fifty dollars.

Disposal of fees.

All moneys collected under the provisions of this Section shall be deposited in the State Examiner's Fund for the use and benefit of the General Fund.

In any case where the current examination shall not have been made prior to the 1st day of June of any year, the above fees must be paid as herein specified provided however that all examinations shall cover the entire period from the date of the last examination.

Section 2. That Section 221 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

State examiner fund, creation and contents.

Section 221. For the purpose of the just distribution of the expenses incurred in pursuance of this chapter, there is created a fund designated "State Examiner Fund." For the credit of said fund each county of the state shall pay to the State Treasurer for the use and benefit of the General Fund, on or before the first day of June of each year, according to its taxable valuation, as follows:

Counties.

Counties having a taxable valuation of five million dollars or less, one hundred and seventy-five dollars.

HeinOnline -- 1923 249 1923

Counties having a taxable valuation of from five million to seven million dollars, two hundred and twenty-five dollars.

Counties having a taxable valuation of from seven million to ten million dollars, two hundred fifty dollars.

Counties having a taxable valuation of from ten million to fifteen million dollars, three hundred dollars.

Counties having a taxable valuation of fifteen million to twenty million dollars, three hundred and fifty dollars.

Counties having a taxable valuation of from twenty million to thirty million dollars, four hundred and fifty dollars.

Counties having a taxable valuation of from thirty million to forty million dollars, six hundred dollars.

Counties having a taxable valuation of more than forty million dollars, seven hundred and fifty dollars.

All consolidated county and city governments having a taxable valuation of from thirty million to forty million dollars, eight hundred dollars.

All consolidated county and city governments having a taxable valuation of more than forty million dollars, one thousand dollars.

All Counties hereafter created are to be deemed counties of the seventh class until an assessment of such county has been made and the class thereof determined.

Banks.

Each bank, banking corporation, savings bank, investment and loan company, subject to the supervision of the superintendent of Banks under the laws of this State, shall on or before the first day of June of each year, pay into the State Banking Fund for the use and benefit of the General Fund, a fee according to its capitalization at the following rates:

All banks, incorporated or unincorporated, having capital stock of twenty-five thousand dollars or under, shall pay one hundred dollars.

Those having capital stock over twenty-five thousand dollars and up to and including fifty thousand dollars, shall pay one hundred twenty-five dollars.

Those having capital stock over fifty thousand dollars and up to and including seventy-five thousand dollars, shall pay one hundred fifty dollars.

Those having capital stock over seventy-five thousand dollars and up to and including one hundred thousand dollars, shall pay two hundred dollars.

Those having capital stock over one hundred thousand dollars and up to and including three hundred thousand

HeinOnline -- 1923 250 1923

dollars, shall pay three hundred dollars.

Those having capital stock of over three hundred thousand dollars, shall pay three hundred fifty dollars.

Building and loan associations.

Each Building and Loan Association subject to examination by the State Examiner shall on or before the first day of June of each year pay into the State Examiner's Fund, for the use and benefit of the General Fund, a fee of one-fifteenth of one per cent of its assets, as shown by its last annual statement; provided, that no examination fee shall be less than thirty-five dollars nor more than two hundred and fifty dollars for a domestic association, nor more than four hundred dollars for a foreign association doing business in this State.

Special examinations.

Special examinations may be had of any county, city or town, bank, building and loan association and all other office and boards whether temporary or permanent, however created, and for whatever purpose, having the control, management, collection or disbursement of any public money of any character or description, when in the judgment of the State Examiner it shall be deemed necessary, and such special examinations shall be charged for at a rate of fifteen dollars per day for each examiner employed for the time actually consumed. Such expenses shall be collected by the Superintendent of Banks and paid to the State Treasurer and by him credited to the State Examiner's departmental appropriation for the current year.

Fee for examining county high schools.

A fee of twenty-five dollars shall be paid to the State Treasurer for the examination of each Free County High School from the General Fund of such High School, such fee to be credited to the State Examiner's Fund for the use and benefit of the General Fund of the State.

Fees when payable.

In any case where the current examination shall not have been made prior to the 1st day of June of any year, the above fees must be paid as herein specified, provided however that all examinations shall cover the entire period from the date of the last examination.

Section 3. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Section 4. This Act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 6, 1923.

HeinOnline -- 1923 251 1923

CHAPTER 94.

An Act Amending Section 1938 of the Revised Codes of the State of Montana of 1921 Relating to the Foreclosure of State Land Loans and the Sale of Such Lands Bid In by the State at Foreclosure Sale, and Providing for the Re-sale Thereof to the Original Mortgagor, His Heirs or Legatees, on the Amortization Plan, and to Provide for the Remission of Penalties for Nonpayment of Taxes in Certain Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1938 of the Revised Codes of Montana of 1921, be, and same is hereby amended to read as follows:

Foreclosure of state land loan mortgages.

"Section 1938. In case of default in any of the conditions of any mortgage taken as security for any loan made from any of such funds, by reason of which the right to foreclose the same shall accrue to the state, the State Board of Land Commissioners may notify the Attorney General of such default, and the Attorney General shall, in the name and in behalf of the state, foreclose such mortgage by action in the manner provided by law for the foreclosure of mortgages upon real estate. If no other person shall bid the full amount due upon said mortgage, upon such foreclosure sale, with the costs and expenses of foreclosure sale, together with all unpaid taxes thereon and together with interest thereon from the date of judgment and decree, as allowed by law, the

Register to bid in property when.

register of state lands shall bid in the property in the name of the state for the amount due, and all costs and expenses incurred and if the same is not redeemed, as provided by law, the sheriff's deed shall be made to the State of Montana and the said lands thereafter shall be subject to sale and disposal in the same manner as other state lands, but in no case shall such lands be sold for a less sum than the state was compelled to bid for the same on such foreclosure sale; provided, however, that said lands may be re-sold to the original mortgagor, his heirs, legatees or any party defendant to said foreclosure proceeding or sale, in the manner following: Upon written application to re-purchase said lands made by the original

Procedure to repurchase.

mortgagor, his heirs, assigns, legatees, or all parties interested of record, to the State Board of Land Commissioners, filed within ninety (90) days from the expiration of the period of redemption, accompanied with a pay-

HeinOnline -- 1923 252 1923

ment of fifteen per cent (15%) of the sum the state was compelled to bid for the land, together with interest thereon, as allowed by law, the said Board of Land Commissioners may enter into a contract with such original mortgagor, his heirs or legatees, or all parties interested of record, by which the balance of said sum shall be paid on the amortization plan during a period not exceeding thirty-five (35) years, from the date of the execution of the mortgage. The amortization plan is hereby meant the plan or payment defined in Section 1928 of the Revised Codes of Montana of 1921, as amended by the Eighteenth Legislative Assembly. Payment may be made in full at any time before maturity, at any interest paying date, together with interest on all deferred payments at the rate of five per cent (5%) per annum to be paid annually, and conditioned that upon the faithful performance of said contract by said purchaser, his heirs, legatees, or assigns, the title to said land, as acquired under the mortgage, will be re-conveyed to the said purchaser, his heirs, legatees or assigns. Such application shall take precedence over any application to purchase said land by any person other than said original mortgagor, his heirs or legatees, assigns or all parties interested of record. All money received from the sale of said lands shall be deposited in the office of the State Treasurer, and by him credited to the particular fund from which the loan on said lands was originally made."

Amortization plan.

Interest rate.

Disposal of money.

Section 2. That hereafter where the State Board of Land Commissioners find it necessary to pay delinquent taxes upon any land upon which loans have been made under the provisions of Section 1928 to 1948, Revised Codes of Montana of 1921, inclusive, or upon any lands upon which mortgage foreclosure proceedings are pending or have been concluded by the said State Board of Land Commissioners that all penalties imposed for nonpayment of taxes shall be remitted.

Remission of delinquent tax penalties.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

HeinOnline -- 1923 253 1923

CHAPTER 95.

An Act to Amend Section 4465 of the Revised Codes of Montana of 1921, Relating to the Jurisdiction and Powers of County Commissioners, by Amending Subdivision 5 Hereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4465 of the Revised Codes of Montana, 1921, be, and the same is hereby amended to read as follows:

Powers of county commissioners.

Section 4465. GENERAL AND PERMANENT POWERS. The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law:

Supervisory powers.

1. To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, charged with assessing, collecting, safe keeping, management, or disbursement of the public revenues; see that they faithfully perform their duties; direct prosecutions for delinquences; and, when necessary, require them to renew their official bonds, to make reports, and to present their books and accounts for inspection.

Creation special districts.

2. To divide the counties into township, school, road, and other districts required by law, change the same, and create others as convenience requires.

Elections.

3. To establish, abolish, and change election precincts, and to appoint judges of election, canvass all election returns, declare the result, and issue certificates thereof.

Highways and bridges.

4. To lay out, maintain, control, and manage public highways, ferries, and bridges, within the county, and levy such tax therefor as required by law; provided, however, that they may, in the exercise of a sound discretion, jointly with other counties, lay out, maintain, control, manage, and improve public highways, ferries, and bridges in adjacent counties, wholly or in such part as may be agreed upon between the boards of county commissioners of the counties concerned, and levy taxes therefor as provided by law.

Poor.

5. To provide for the care and maintenance of the indigent sick or the otherwise dependent poor of the county; erect and maintain hospitals therefor, or otherwise provide for the same; and to levy necessary taxes therefor, per capita, not exceeding two dollars ($2.00), and a tax on property not exceeding three-fifths of one

Tax levy for poor.

HeinOnline -- 1923 254 1923

per cent (1%); or either of such levies when both are not required, and to expend not to exceed five per cent (5%) of any such levy for the collection of said per capita tax, or of any part thereof.

Poor farm.

6. To provide a farm for the support of the poor of the county, and make regulations for working the same.

Provide rooms.

7. When there are no necessary county buildings, to provide suitable rooms for county purposes.

Purchase or lease of property.

8. To purchase, receive by donations, or lease any real or personal property necessary for the use of the county, preserve, take care of, manage, and control the same; but no purchase of real property must be made unless the value of the same has been previously estimated by three disinterested citizens of the county appointed by the district judge for that purpose, and no more than the appraised value must be paid therefor.

Court house, jail and hospitals.

9. To cause to be erected and furnished a courthouse jail, hospital, and such other public buildings as may be necessary.

Sale of county property.

10. To sell at public auction at the court-house door, after thirty days' previous notice, given by publication in a newspaper of the county, or posted in five public places of the county, and convey to the highest bidder, for cash, any property, real or personal, belonging to the county, paying the proceeds into the county treasury for the use of the county.

Examination of accounts.

11. At the regular meetings of the board, to examine and allow the accounts of all officers having the care, management, collection, or disbursement of moneys belonging to the county, or appropriated by law or otherwise for its use and benefit.

12. At the regular meetings of the board to examine, settle, and allow all accounts legally chargeable against the county except salaries of officers, and order warrants to be drawn on the county treasurer therefor, and provide for the issuing of the same.

General tax levy.

13. To levy such tax annually on the taxable property of the county for county purposes as may be necessary to defray the current expenses therefor, including salaries otherwise unprovided for, not exceeding sixteen mills on each dollar of the assessed valuation for any one year; and to levy such taxes as are required to be levied by special or local statutes.

14. To equalize the assessments.

Equalization Suits.

15. To direct and control the prosecution and defense of all suits to which the county is a party.

HeinOnline -- 1923 255 1923

Insurance. 16. To insure the county buildings in the name of and for the benefit of the county.

Licenses. 17. To grant licenses for keeping ferries, and such other licenses as are provided by law.

Fix salaries. 18. To fix the compensation of all county officers not otherwise in this code or by general or special law fixed, and provide for the payment of the same.

Fill vacancies. 19. To fill by appointment all vacancies that may occur in county, township, or precinct offices, except in the office of county commissioner.

Printing. 20. To contract for the county printing, and provide books and stationery for county officers.

Publication of proceedings. 21. At the adjournment of each session of the board, to cause to be published in a newspaper, or otherwise, a fair statement of all its proceedings, and annually a statement of the financial condition of the county.

Care for property. 22. To represent the county, and have the care of county property, and the management of the business and concerns of the county in all cases where no other provision is made by law.

Rules. 23. To make and enforce such rules for its government, the preservation of order, and the transaction of business, as may be necessary.

Seal. 24. To adopt a seal for the board, a description and impression whereof must be filed by the clerk in the offices of the county clerk and secretary of state.

General powers. 25. To perform all other acts and things required by law not in this title enumerated, or which may be necessary to the full discharge of the duties of the chief executive authority of the county government.

Borrow money. 26. To borrow money upon the credit of the county to meet current expenses, if the county revenue is insufficient.

Issue bonds. 27. To issue on the credit of the county coupon bonds to an amount sufficient to secure the necessary funds for the procurement of necessary building sites, for the construction of necessary public buildings, and for the construction of bridges and highways, in accordance with the provisions of articles 3 and 4, Chapter 2, title 2, part 4 of the Political Code.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

HeinOnline -- 1923 256 1923

CHAPTER 96.

An Act to Fix the Time and Method of Collecting Taxes and Interest Thereon: Amending Sections 2161, 2163, 2165, 2169, 2171, 2174, 2176, 2180, 2181, and 2182 of the Revised Codes of Montana of 1921, and Repealing Sections 2175, 2183, and 2188 of the Revised Codes of Montana of 1921, All Relating to the Collection of Taxes.

Be it enacted by the Legislative Assembly of the State of Montana:

Taxes when payable.

Section 1. All taxes levied and assessed in the State of Montana shall be payable as follows: One-half of the amount of such taxes shall be payable on or before 6 o'clock P. M. on the 30th day of November of each year and one-half on or before 6 o'clock P. M. on the 31st day of May of each year; provided, that unless one-half of such taxes are paid on or before 6 o'clock P. M. on the 30th day of November of each year, then, and in that event, the whole amount of taxes so levied and assessed shall become delinquent, and all delinquent taxes shall draw interest at the rate of one per cent per month from the time they are first delinquent until paid. All taxes not paid on or before 6 o'clock P. M. of the 31st day of May of each year will be delinquent, and will draw interest at the rate of one per cent per month until paid. A penalty of five per cent shall be added to all delinquent taxes.

Interest on delinquent taxes.

Section 2. That Section 2169 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"2169. TREASURER TO PUBLISH NOTICE OF DELINQUENCY. Within ten days after the receipt of the assessment book, the county treasurer must publish a notice specifying:

Notice of delinquent taxes, publication.

1. That one-half of all taxes levied and assessed will be due and payable before 6 o'clock P. M. on the 30th day of November next thereafter, and that unless paid prior thereto the whole amount of said taxes will be delinquent and will draw interest at the rate of one per cent per month from and after such delinquency, and ten per cent will be added to the amount thereof as a penalty, and that one-half of all taxes levied and assessed will be due and payable on or before 6 o'clock P. M., on the 31st day of May next thereafter, and that unless paid prior to said date said taxes will be delinquent and will

HeinOnline -- 1923 257 1923

draw interest at the rate of one per cent per month from and after such delinquency, and five per cent will be added to the amount thereof as a penalty.

2. The time and place at which payment of taxes may be made; and he must send to the last known address of each tax-payer a postcard or other written notice, postage prepaid, showing the amount of taxes due the current year, and the amount due and delinquent for other years; but any failure to give either notice will not affect the legality of the tax."

Section 3. That Section 2171 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

Treasurer to note date and amount of payment.

"2171. TREASURER TO NOTE DATE AND AMOUNT OF PAYMENT. The county treasurer must note the date and the amount of the payment of any tax in the assessment book opposite the name of the person paying."

Section 4. That Section 2174 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Settlements by county treasurer.

"2174. On the first Monday in March and September, and the second Monday in June and December, the county Treasurer must settle with the board of county commissioners for all moneys collected for the state or county, and on said days must deliver to and file in the office of the county clerk a statement, under oath, showing: An account of all his transactions and receipts since his last settlement; and that all money collected by him is in the county Treasury."

Section 5. That Section 2176 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Report by county treasurer to county clerk.

"2176. On the third Monday of December and on the third Monday of June of each year the county treasurer must make a report to the county clerk in detail, showing the amount of taxes collected and a complete delinquent list of all persons and property then owing taxes, and the county clerk shall compare such report with the books of the county treasurer, and shall keep a record of such report in his office."

Section 6. That Section 2180, of the Revised Codes of Montana of 1921 be, and the same is, hereby amended to read as follows:

HeinOnline -- 1923 258 1923

"2180. TREASURER CHARGED WITH DELINQUENT TAXES. After settlement with the county treasurer, as prescribed herein, the county clerk must charge the treasurer then acting with the amount of taxes then due on the delinquent tax list, and within three days thereafter deliver the list, duly certified, to the county treasurer." Treasurer charged with delinquent taxes.

Section 7. That Section 2181 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"2181. STATEMENT TO BE TRANSMITTED TO THE STATE BOARD OF EQUALIZATION BY THE COUNTY CLERK. Within ten days after each settlement the county clerk must transmit by mail a statement to the State Board of Equalization, in such form as it may require, of each kind of property assessed and delinquent, and the total amount of delinquent taxes." Statement by county clerk.

Section 8. That Section 2182 of the Revised Codes of Montana of 1921 be, and the same is, hereby amended to read as follows:

"2182. PUBLICATION OF NOTICE OF TAX SALE. On or before the last Monday of December and the last Monday of June of each year the county treasurer and city treasurer must publish in the manner and for the time prescribed by Sections 2184, 2185 and 2186 of the Revised Codes of Montana of 1921, a notice specifying: Publication of notice of tax sale.

1. That at a given time and place (to be designated in said notice) all property in the county, or city respectively, upon which delinquent taxes are a lien will be sold at public auction, unless prior to said time said delinquent taxes, together with all interest, penalties, and costs due thereon are paid: Contents of notice.

2. That a complete delinquent list of all persons and property in the county, now owing taxes, is on file in the office of the county treasurer or city treasurer, and is subject to public inspection and examination.

Section 9. That Section 2161 of the Revised Codes of Montana of 1921, be, and the same is hereby amended to read as follows:

"2161. On or before the third Monday of October he must deliver the original assessment book to the county treasurer, with an affidavit attached thereto, and by him subscribed as follows: Affidavit of county clerk on assessment book.

HeinOnline -- 1923 259 1923

'I,————————————, County Clerk of the County of ————————————, do swear that I received the assessment book of the taxable property of the county from the County Assessor with his affidavit thereto affixed, and that I have corrected it and made it conform to the requirements of the county and state board of equalization; that I have reckoned the respective sums due as taxes, and have added up the columns of valuations, taxes and acreage, as required by law, and the said assessment book to which this affidavit is affixed is full, true and correct, and made in the manner prescribed by law'."

Section 10. That Section 2163 of the Revised Codes of Montana of 1921, be, and the same is hereby amended to read as follows:

Clerk to charge treasurer.

"2163. On delivering the original assessment book to the county treasurer, as provided in Section 2161, the county clerk must charge the treasurer with the full amount of taxes levied."

Section 11. That Section 2165 of the Revised Codes of Montana of 1921, be, and the same is hereby amended to read as follows:

Clerk to charge and credit collectors.

"2165. The county clerk, if the original assessment book or the delinquent tax list is transferred from one collector to another, must credit the one and charge the other with the amount then outstanding on the tax-book."

Section 12. That Sections 2175, 2183, and 2188 of the Revised Codes of Montana of 1921, and all other Acts and parts of Acts in conflict herewith are hereby repealed.

Section 13. This Act shall be in full force and take effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 97.

An Act for the Submission to the Qualified Electors of the State of Montana of an Amendment to Section 10 of Article IX of the Constitution of the State of Montana, Relating to the Qualifications of County Superintendents of Schools and School District Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1923 260 1923

Submission of amendment to electors.

Section 1. That Section 10 of Article IX of the Constitution of the State of Montana be amended as hereinafter provided and that the question of said amendment be submitted to the qualified electors of the state of Montana at the next general election.

Section 2. That Section 10 of Article IX of the Constitution of the state of Montana be and the same is hereby amended to read as follows:

Form of amendment.

"Section 10. All persons possessing the qualifications for suffrage prescribed by Section 2 of this Article as amended and such other qualifications as the legislative assembly may by law prescribe, shall be eligible to hold the office of county superintendent of schools or any other school district office."

Ballots.

Section 3. Separate official ballots shall be provided at the general election to be held in November, 1924, which shall have printed thereon all of Section 10 of Article IX of the Constitution of the State of Montana as amended by this Act, and below the same shall be printed the words,

☐ For the above written amendment to the Constitution.

☐ Against the above written amendment to the Constitution.

Each elector shall designate his preference by marking an "X" in the square before the proposition for which such elector desires to vote.

Voting and canvass.

Section 4. The votes cast for and against the amendment above proposed shall be canvassed, determined and declared as provided by the general election laws of the state of Montana.

Section 5. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 6. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 7, 1923.

HeinOnline -- 1923 261 1923

CHAPTER 98.

An Act Prescribing the Qualification of Electors Who Shall Be Entitled to Vote Upon Proposals to Create or Increase Indebtedness of the State, County, City, Town, School District or Other Municipal Corporation; Providing for the Preparing and Posting of Lists of Such Qualified Electors; Providing for the Preparing and Furnishing of Poll-Books; Prescribing the Duties of the County Clerk and Clerk of the City, Town, School District or Other Municipal Corporation, and Repealing Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Who may vote on certain questions.

Section 1. That from and after the passage and approval of this Act, only such registered electors of the state, county, city, town, school district, or other municipal corporation, whose names appear upon the last preceding assessment roll, shall be entitled to vote upon any proposal to create or increase any indebtedness of state, county, city, town, school district or other municipal corporation, required by law to be submitted to a vote of the electors thereof.

Clerks to prepare lists and poll books.

Section 2. The county clerk shall, immediately after the closing of the registration books of his county preceding such election, as provided by law, prepare lists of the registered electors of the county, city, town, school district, or other municipal corporation whose names appear upon the last preceding assessment roll, and shall prepare poll-books therefor as provided by Section 568, Revised Codes of Montana of 1921, and furnish copies thereof to the city, town, school district or municipal corporation in which such election is to be held for which he shall receive compensation as provided in Section 571, Revised Codes of Montana of 1921. Whenever the election is upon a proposal to create or increase the debt of the state or of a county, the County Clerk shall

Posting lists.

post lists of such electors as provided in Section 567, Revised Codes of Montana of 1921. When the election is upon a proposal to create or increase the indebtedness of a city, town, school district or other municipal corporation, the County Clerk shall deliver such lists to the clerk of the city, town, school district or other municipal corporation, holding such election, and it shall be his duty to post such lists in the manner provided in said

HeinOnline -- 1923 262 1923

Section 567. Provided, however, that nothing in this Act contained shall apply to or affect any such election called at the time of the passage and approval hereof.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its final passage and approval.

Approved March 7, 1923.

CHAPTER 99.

An Act Amending Section 162 of the Revised Codes of Montana of 1921, Relating to the Commissioner of Insurance.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 162 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Commissioner of insurance, deputies.

"The State Auditor in addition to his present title shall be hereafter designated as Commissioner of Insurance. He shall appoint a Deputy to be designated as Deputy Commissioner of Insurance, who shall be in charge of the department of insurance in the said Auditor's office under the direction and control of said State Auditor and Commissioner of Insurance. The insurance commissioner shall have and exercise the power to enforce all the laws of the state relating to insurance, and it shall be his duty to enforce all the provisions of such laws for the public good. Provided that nothing herein contained shall be construed to authorize an increase of employees in said office.

Powers.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage.

Approved March 7, 1923.

HeinOnline -- 1923 263 1923

CHAPTER 100.

An Act Relating to Chattel Mortgages and Increase Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Chattel mortgage to include increase when.

Section 1. A chattel mortgage given upon livestock, may, if specified therein, include all increase of like kind or progeny, and wool of such mortgaged animals, from year to year, during the life of the mortgage.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 101.

An Act Requiring Certain Sleighs Used in This State by Any Persons, Firms or Corporations to Be of Certain Width; and Providing a Penalty for Violating the Provisions of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Sleighs, regulation of sale and use.

Section 1. On and after the first day of January, 1924, it shall be unlawful for any person, firm or corporation in this State to sell any new or first hand draft sleigh, to any person or persons residing in this State for use herein, unless the runners of such sleigh shall measure from center to center four feet and six inches or wider. And on and after January 1st, 1928, it shall be unlawful for any person or persons to use upon any of the public highways of this State any sleigh, unless the runners shall measure from center to center four feet and six inches, or wider.

Penalty.

Section 2. Any person, firm or corporation violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Ten Dollars ($10.00) nor more than Twenty-five Dollars ($25.00).

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after January 1st, 1925.

Approved March 7, 1923.

HeinOnline -- 1923 264 1923

CHAPTER 102

An Act to Amend Sections 2238 and 2239 of the Revised Codes of Montana of 1921, Relating to the Collection of Personal Property Taxes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2238 of the Revised Codes of Montana of 1921, be, and the same is, hereby amended to read as follows:

"2238. DUTY OF ASSESSOR. It shall be the duty of the assessor, upon discovering any personal property in the county the taxes upon which are not in his opinion a lien upon real property to secure the payment of such taxes, to immediately, and in any event not more than ten days thereafter, make a report to the treasurer setting forth the nature, amount and assessed valuation of such assessed property, where the same is located, and the name and address of the owner, claimant or other person in possession of the same. The county assessor shall file with the State Board of Equalization a duplicate of each of such reports so made to the county treasurer."

Assessor to report personal property taxes when not lien on real estate.

Section 2. That Section 2239 of the Revised Codes of Montana of 1921 be, and the same is, hereby amended to read as follows:

"2239. DUTY OF TREASURER. The county treasurer must collect the taxes on all personal property, and in the case provided for in the preceding section, it shall be the duty of the treasurer immediately upon receipt of such report from the assessor to notify the person or persons against whom the tax is assessed that the amount of such tax is due and payable at the county treasurer's office. The county treasurer must at the time of receiving the assessor's report, and in any event within thirty days from the receipt of such report, levy upon and take into his possession such personal property against which a tax is assessed and proceed to sell the same, in the same manner as property is sold on execution by the Sheriff, and the County Treasurer may for the purpose of making such levy and sale, designate and appoint the Sheriff as his deputy, and such Sheriff shall be entitled to receive the same fees, as entitled in making a seizure and sale under execution. For the purpose of determining the taxes due, on such personal property, the Treasurer must use the levy made during the pre-

County treasurer to collect taxes.

Levy and sale.

HeinOnline -- 1923 265 1923

Liability of treasurer on bond.

vious year, if the levy for the current year has not yet been made. The county treasurer and his sureties are liable on his official bond for all taxes on personal property remaining uncollected, by reason of the wilful failure and neglect of such treasurer to levy upon and sell such personal property for taxes levied thereon. The county treasurer must on or before the first day of December of each year report to the State Board of Equalization in detail all personal property taxes reported to him by the county assessor under the provisions of Section 2238, showing the amount of such taxes paid, or collected, the amount uncollected and the reasons for his failure to collect the same in each instance.

Procedure on failure treasurer to report.

In case of the failure of the county treasurer to make such report to the State Board of Equalization, or of the failure to give sufficient reasons for the non-collection of such taxes, it shall be the duty of the State Board of Equalization to require the Attorney General of the state, or the county attorney of the county, to institute an action against the treasurer and his sureties on his official bond for such amount of money not so collected. Nothing herein shall be so construed as to prevent the County Treasurer from collecting taxes due on personal property by seizure and sale thereof at any time after the expiration of the ninety day period hereinbefore mentioned."

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 103.

An Act Authorizing Board of Commissioners of Irrigation Districts to Cancel Assessments Made for the Benefit of the United States, and to Amend Section 7236 of the Revised Codes of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Commissioners may cancel assessments when.

Section 1. In any case where the Board of Commissioners of any irrigation district has made a levy or assessment under the provisions of Section 7235 of the Revised Codes of 1921, and included therein any amount due the United States under any contract or agreement

HeinOnline -- 1923 266 1923

for the purchase of any irrigation works or for the operation and maintenance of any irrigation works, or while acting as fiscal agent for the United States or under any authorization of the district by the United States to make collections of moneys for or on behalf of the United States in connection with any Federal Reclamation Project, as provided in Section 7174 of the Revised Codes of 1921, and the United States shall thereafter, modify or supplement such contract or agreement so as to eliminate certain charges under said contract or agreement, or so as to make such charges due at a later date or dates than originally provided in said contract or agreement, said Board of Commissioners are empowered to direct the cancellation of said levy or assessment theretofore made to raise funds to pay the United States that are under such modification or supplemental contract or agreement made due and payable at a later date or dates.

Section 2. That Section 7236 of the Revised Codes of Montana of 1921 be amended to read as follows: "Where a contract has been entered into or may be hereafter entered into between an irrigation district and the United States the board of commissioners shall have the power to levy assessments against all of the land within the district for any and all of the purposes hereinbefore enumerated, and, in addition thereto, the power to levy assessments against any or all of the lands in said district in compliance with such contract; provided further, that where irrigation works lie partly in the State of Montana and partly in an adjacent state, the board of commissioners may contract with the district or districts in the adjacent state for the mutual construction of works, operation and maintenance of work, drainage and other matters, and things pertaining to said works, and shall have the power to levy assessments against any or all lands within the district necessary to carry out the provisions of such contract."

Assessments on federal and other contracts.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

HeinOnline -- 1923 267 1923

CHAPTER 104.

An Act to Amend Sections 1211 and 1212 of the Revised Codes of Montana, 1921, Providing for the Apportionment and Distribution of Oil and Gas Royalties Received From the United States.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1211 and 1212, Revised Codes of Montana, 1921, be, and the same are hereby amended so as to read as follows:

Apportionment and distribution oil and gas royalties.

"1211. MANNER OF APPORTIONMENT AND DISTRIBUTION. All sums of money derived from any and all bonuses, royalties, and rentals paid into the treasury of the United States on account of any permits or leases granted by the government of the United States as provided by the Act of Congress of February 25, 1920, and paid by the secretary of the treasury of the United States to the state of Montana, shall, within thirty days after being received by the state of Montana, be apportioned and distributed by the state treasurer as follows: One-half thereof shall be deposited to the credit of the state highway fund, and the other one-half thereof shall be apportioned between and distributed and paid over to the several counties of the state in proportion to the total number of teaching positions, in which teachers were employed for a period of at least four months, in each county during the school year ending June 30th immediately preceding, as shown by the statements and certificates of the county superintendents of schools filed with the state treasurer for such school year, and such state treasurer must, at the time of making such apportionment and distribution notify the county superintendent of schools of each of the several counties of the amount so apportioned and distributed to each county.

Apportionment to schools.

Within ten days after receiving such notice from the state treasurer each county superintendent of schools must apportion the amount received and paid over to his county by the state treasurer in the following manner, to-wit: (a) Sixty per centum (60%) thereof shall be apportioned between and among the several school districts, district high schools and county high schools in proportion to the total number of teaching positions, in which teachers were employed for at least four months during the last preceding school year for which a state-

HeinOnline -- 1923 268 1923

ment and certificate was filed with the state treasurer by the county superintendent of schools in each such school district, district high and county high school; (b) thirty-five per centum (35%) thereof shall be apportioned between and among the several school districts, district high and county high schools in proportion to the aggregate number of days attendance of all eligible pupils who attended for a period of not less than six weeks during the aforesaid school year in each district school, district high and county high school; (c) five per centum (5%) thereof shall be apportioned between and among the district high schools and county high school in proportion to the number of years of accredited high school work during the aforesaid school year in each such district high and county high school. Immediately after making such apportionment the county superintendent of schools must make and file with the county treasurer a statement and certificate showing the total amount apportioned to each school district, district high and county high school, and the county treasurer must, on receiving such statement and certificate, immediately credit the general fund of each school district, district high and county high school with the amount to which each is entitled as shown by such statement and certificate, and such amounts shall be expended for the same purpose for which other moneys deposited to the credit of such funds may be expended, and for no other purpose.

Superintendent of schools to report number of teaching positions.

"1212. STATEMENT BY COUNTY SUPERINTENDENT. The county superintendent of schools of each county in the state must, between the 15th day of August and the 1st day of September, in each year, make and file with the state treasurer a statement and certificate showing the total number of teaching positions, in which teachers were employed for a period of at least four months, during the school year ending June 30th immediately preceding, in all of the public schools in such county, including kindergarten, primary, grade, district high and county high schools, provided, however, that if during such school year, or after the close thereof and before the making of such statement and certificate, any portion of a county has been detached therefrom and added to another county, or detached therefrom and included in a new county, the number of teaching positions within the portion of such county so detached shall not be included in the statement and certificate of the county

HeinOnline -- 1923 269 1923

superintendent of schools of the county to which the same is attached, or in the statement and certificate of the county superintendent of schools of the new county."

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 105.

An Act to Amend Sections 3859 and 3875 of the Revised Codes of Montana, 1921, Relating to the Inspection of Water Craft, Appointment of Inspectors and Their Compensation, and Inspection and License Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 3859 and 3875 of the Revised Codes of Montana, 1921, be, and the same are, hereby amended so as to read as follows:

Inspectors of water craft, how appointed.

"3859. APPOINTMENT OF INSPECTORS OF WATER CRAFT. That each inspector of boilers, appointed by the Industrial Accident Board under the provisions of Section 2712, shall be appointed and designated by the Board of Railroad Commissioners of the State of Montana as ex-officio inspector of steam vessels, other boats propelled by machinery, sailing craft, ferry boats and barges, other than private pleasure boats, on any of the navigable waters of the State of Montana."

Compensation and fees.

"3875. COMPENSATION OF INSPECTORS — INSPECTION AND LICENSE FEES. Inspectors of boilers shall not be entitled to any additional compensation for services performed by them as inspectors of water craft. The fees for such inspection shall be paid at the time of the inspection. All fees for licenses shall accompany the application for such license, and in case such license is not issued, the fees shall be returned to the applicant. All fees must be accounted for and paid over to the State Treasurer for use of General Fund.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after the first day of April, 1923.

Approved March 7, 1923.

HeinOnline -- 1923 270 1923

CHAPTER 106.

An Act Requiring Bank Checks to Be Presented Within a Year From Date Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Time-limit for presentation of checks.

Section 1. Where a check or other instrument payable on demand at any bank or trust company doing business in this state is presented more than one year from its date, such bank or trust company may, unless expressly instructed by the drawer or maker to pay the same, refuse payment thereof and no liability shall thereby be incurred to the drawer or maker for dishonoring the instrument by non-payment.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in force and effect from and after its approval.

Approved March 7, 1923.

CHAPTER 107.

An Act to Amend Section 1760 of the Revised Codes of Montana, 1921, Relating to the Registration Fees for Motor Vehicles and the Disposition Thereof, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1760 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Schedule of registration fees for motor vehicles.

"Section 1760. Registration Fees. 1. Registration fee shall be paid to the registrar of motor vehicles upon registration or re-registration of dealers and motor vehicles in accordance with this Act, as follows:

'Dealers in motor vehicles other than motorcycles, seventy-five dollars.

'Dealers in motorcycles, twenty-two dollars and fifty cents.

'Dealers in automobile accessories where volume exceeds $200.00 per year, ten dollars.

'Motor vehicles, other than motor trucks, having a rated engine capacity not exceeding twenty-three horse-

HeinOnline -- 1923 271 1923

power (according to S. A. E. formula), seven dollars and fifty cents.

'Motor vehicles, other than motor trucks, having a rated engine capacity exceeding twenty-three horsepower, and not more than thirty-seven horsepower (according to S. A. E. formula), fifteen dollars.

'Motor vehicles, other than motor trucks, having a rated engine capacity exceeding thirty-seven horsepower (according to S. A. E. formula) twenty-two dollars and fifty cents.

'Electrically driven passenger vehicles, fifteen dollars.

'Trucks not over one ton capacity, ten dollars.

'Trucks over one and not over two tons capacity, twenty-two dollars and fifty cents.

'Trucks over two and not over three tons capacity, thirty-seven dollars and fifty cents.

'Trucks over three and not over five tons capacity, sixty dollars.

'Trucks over five tons capacity, two hundred dollars.

'Bicycle with motor attachment, one dollar and fifty cents.

'The registrar of motor vehicles shall first deduct from all fees paid under the provisions of this Act, the actual cost of making and mailing all licenses, certificates, license plates, and identification marks, and shall transmit the remainder of the fees so paid to the county from which the registration fee came, for deposit to the credit of the general road fund of said county.

'2. If any dealer or motor vehicle is originally registered after July thirty-first in any year, the registration fee for the balance of such year shall be one-half of the regular fee above given.

Dealers' registration fees.

'3. A dealer who shall maintain more than one place of business or who shall maintain any branch establishment or establishments, must register and pay a registration fee for each such place of business or establishment.

'4. A registered dealer who may sell and dispose of his entire business to any other person may have his certificate of registration transferred to such purchaser, upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied

HeinOnline -- 1923 272 1923

by a filing fee of one dollar, the registrar of motor vehicles shall note upon the registration record such change of ownership. But no certificate of registration can be so transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchaser of such business.

Certain vehicles excepted.

'5. The provisions of this Act with respect to payment of registration fees shall not apply or be binding upon motor vehicles owned or controlled by the United States of America, or by any state, city or county; but in all other respects the provisions of this Act shall be applicable and binding upon cars so owned."

Scope of act.

Section 2. The provisions of this Act with respect to the transmitting of registration fees to the county from which the registration fee came, shall apply to all such registration fees undivided and in the custody of the registrar of motor vehicles at the time of the passage and approval of this Act.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act will take effect and be in full force from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 108.

An Act to Provide for the Payment of Forfeited Shares in Building and Loan Associations.

Be it enacted by the Legislative Assembly of the State of Montana:

Forfeiture of shares in banking and loan associations, how regulated.

Section 1. FORFEITURE OF SHARES — WHEN THEY SHALL ESCHEAT TO STATE. When a member not a borrower of any building and loan association, domestic or foreign doing business in this state be in arrears for more than six months for dues, his shares, at the option of the directors, may be declared forfeited. The withdrawal value of the shares at the time of the first default shall be ascertained and all charges deducted therefrom and the balance paid to such member. All shares so forfeited shall cease to participate in any profits of the association accruing after the last adjustment and

HeinOnline -- 1923 273 1923

valuation of said shares before said default, but such profits shall revert to the association freed from all interest, claim or demand on the part of such member or any person claiming under him. Shares in arrears as above provided, but which have not been declared forfeited, shall continue to participate in the profits of the association. The amount due all unclaimed forfeited shares of all building and loan associations doing business in this state shall escheat to the state of Montana and be held by the state as other escheated property. All building and loan associations doing business in this state, domestic or foreign, shall account for and remit to the state treasurer on the 1st day of March of each year, all unclaimed forfeited balances which have remained unclaimed in such building and loan association.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 109.

An Act to Repeal Sections 7340 and 7341 of the Revised Codes of 1921, Relating to the Procedure for the Exemption of Lands From Liability for Drainage District Assessments; and Amending Section 7342 of the Revised Codes of 1921 Relating to the Effect of a Void Assessment.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 7340 and 7341 of the Revised Codes of 1921 be and the same are hereby repealed.

Section 2. That Section 7342 of the Revised Codes of 1921 be and the same is hereby amended to read as follows:

Cost of illegal assessments, how defrayed.

"7342. Illegal Assessments — Cost — How Defrayed. In case the Court decides that any land could not be assessed for drainage purposes or that any assessment or assessments are void, the commissioners shall levy an additional assessment on all of the assessable lands and corporations in said district based on the last assessment of benefits approved by the Court, to pay the sum lost

HeinOnline -- 1923 274 1923

to the district by reason of the void assessment, or shall pay said sum out of the general funds of the district."

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 110.

An Act Directing the State Treasurer and State Auditor of Montana to Open and Maintain Upon Their Respective Books of Accounts Certain Fund Accounts for the Recording of All Transactions Affecting Moneys Coming Into the Possession of the State Treasurer, and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Designation of controlling fund accounts.

Section 1. The State Treasurer and State Auditor are hereby directed to open and maintain upon their respective books of accounts, the following controlling fund accounts for the recording and reporting of all moneys coming into the custody of the state: General Fund; Bounty Fund; Fish and Game Fund; Livestock Commission Fund; Livestock Sanitary Board Fund; Educational Bond Interest and Sinking Fund; Veterans' Welfare Bond Interest and Sinking Fund; Hail Insurance Fund; Escheated Estates Fund; Soldiers and Sailors Home Fund; Law Enforcement Fund; State Trust and Agency Funds; Federal Trust and Agency Funds; Federal Land Grant Permanent Funds; Federal Land Grant Income Fund; Interest Bearing Investment Funds.

What shall be recorded therein.

Section 2. In the accounts above designated as General Fund; Bounty Fund, Fish and Game Fund; Livestock Commission Fund, Livestock Sanitary Board Fund; Educational Bond Interest and Sinking Fund, Veterans Welfare Bond Interest and Sinking Fund, Hail Insurance Fund, Escheated Estates Fund, Soldiers and Sailors Home Fund and Law Enforcement Fund, shall be recorded all transactions in anywise affecting the receipt for disbursement of moneys now accounted for under the above titles by virtue of existing statutes without change from the present system.

State trust and agency fund account.

Section 3. The Fund Account above designated as the State Trust and Agency Funds Account shall be a gen-

HeinOnline -- 1923 275 1923

eral controlling account, recording all financial operations in anywise affecting the funds now carried in the books of the State Treasurer and the State Auditor, known as the Anti Hog Cholera Serum Fund; Architectural Board Fund; Attorneys License Fund; Biological Survey Fund; Carey Land Act Board Fund; Carey Land Filing Fund; Certified Public Accountants Fund; Chiropractic Examining Board Fund; County Portion Inheritance Tax Fund; Depository Interest Fund; Dixon Endowment Fund; Educational Bond Fund Series "A"; Educational Bond Fund Series "B"; Educational Bond Fund Series "C"; Embalmers License Fund; Fire Marshal's Fund; Gasoline License Tax Fund; Hail Insurance Administration Fund; Highway Commission Fund; Industrial Accident Board Fund; Irrigation Commission Fund; Law Library Fund; Livestock Emergency Fund; Medical Board Fund; Motor Vehicle Administration Fund; Protested License Tax Fund; Real Estate License Fund; Stock Estray Fund; Teachers Certificate Fund; Teachers Permanent Fund; Teachers Retirement Fund; Veterans Welfare Commission Fund.

Federal trust and agency fund.

Section 4. The Fund Account above designated as the Federal Trust and Agency Funds shall be a general controlling account recording all financial operations in anywise affecting the funds now carried in the books of the State Treasurer and the State Auditor, known as the Agricultural College Adams Fund; Agricultural College Flax Fund; Agricultural College Hatch Fund; Agricultural College Morrill-Nelson Fund; Agricultural College Smith-Lever Fund; Board of Health Disease Control Fund; Board of Health Maternity Hygiene Fund; Forest Reserve Fund; Highway Trust Fund; Oil Royalties Fund; Soldiers Home Maintenance Fund; Vocational Education Fund; Vocational Rehabilitation Fund.

Federal land grant permanent fund account.

Section 5. The Fund Account above designated as the Federal Land Grant Permanent Funds Account, shall be a general controlling account recording all financial operations in anywise affecting the funds now carried in the books of the State Treasurer and the State Auditor, known as the Agricultural College Morrill Act Fund; Agricultural College Permanent Fund; Common School Permanent Fund; Deaf and Blind School Permanent Fund; Normal School Permanent Fund; Reform School Permanent Fund; School of Mines Permanent Fund;

HeinOnline -- 1923 276 1923

Soldiers Home Permanent Fund; University Permanent Fund.

Federal land grant income fund.

Section 6. The Fund Account above designated as the Federal Land Grant Income Fund shall be a general controlling account recording all financial operations in anywise affecting the funds now carried in the books of the State Treasurer and the State Auditor known as the Agricultural College Interest and Income Fund; Capitol Building Interest and Sinking Fund; Common School Interest and Income Fund; Deaf and Blind School Interest and Income Fund; Normal School Interest and Income Fund; Reform School Interest and Income Fund; School of Mines Interest and Income Fund; University Interest and Income Fund.

Interest bearing invested funds account.

Section 7. The Fund Account above designated as the Interest Bearing Invested Funds Account shall be a general controlling account recording all financial operations in anywise affecting the funds now carried in the books of the State Treasurer and the State Auditor known as the Agricultural College Permanent Fund; Agricultural College Morrill Fund; Common School Permanent Fund; Common School Income Fund; Deaf and Dumb School Permanent Fund; Normal School Permanent Fund; Reform School Permanent Fund; School of Mines Permanent Fund; Soldiers Home Permanent Fund; Teachers Permanent Fund; University Permanent Fund.

Allocation of new funds.

Section 8. Any new funds hereafter to be created or accepted are hereby placed under their respective general headings, as above designated.

Section 9. All acts or parts of acts in conflict herewith are hereby repealed.

Section 10. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 7, 1923.

CHAPTER 111.

An Act Placing Under the Supervision of the State Examiner All Corporations Within the State Doing a Business Similar to That of a Building and Loan Association, and Making Applicable Thereto the Building and Loan Association Laws of the State and Defining the Powers of Such Corporations.

HeinOnline -- 1923 277 1923

Be it enacted by the Legislative Assembly of the State of Montana:

Building and loan associations.

Section 1. All corporations organized within the State of Montana for the purpose of raising money to be loaned among their members and adopting a form of operation similar to that of building and loan associations; whether they be known as livestock or dairy loan associations or by other name, are hereby declared to be building and loan associations and shall be under the supervision of the State Bank Examiner and shall be conducted under and in accordance with, and be subject to the provisions of the building and loan association laws of the state insofar as applicable, except as further provided in this Act.

Definition.

Supervision.

Dairy Stock corportions, powers.

Section 2. Such corporations organized for the purpose of securing and disbursing dairy or breeding stock or lending money upon the same shall have the right to buy, sell, import or otherwise handle livestock, and shall have the right to mortgage or dispose of or otherwise deal in such livestock or mortgages upon the same, and shall have such powers as are necessary and proper to enable such corporations to carry out the purposes for which they are organized.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 112.

An Act Amending Sections 6453, 6454, and 6455 of the Revised Codes of Montana of 1921, Relating to the Formation of Religious, Fraternal, Benevolent and Charitable Corporations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6453 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Authority to incorporate.

"Section 6453. CHURCHES, CHARITIES, BENEVOLENT AND FRATERNAL SOCIETIES. Associations or persons where pecuniary profit is not the object, for the

HeinOnline -- 1923 278 1923

purpose of establishing and conducting churches, hospitals, lyceums, musical and scientific societies, libraries, lodges of Free and Accepted Masons, Independent Order of Odd Fellows, Independent Order of Good Templars, granges of Patrons of Husbandry, and all other associations, societies, and orders of like character, and social clubs and agricultural societies, stockgrowers' associations, and other associations of like character, including local, independent, and subordinate organizations, as well as state, respectively, supervisory, governing, and grand organizations and bodies of any such associations, society, or order, or for the purpose of establishing public or private charities or both, or for any other lawful purpose, may become incorporated upon complying with the provisions of this chapter."

Section 2. That Section 6454 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

"Section 6454. INCORPORATION OF RELIGIOUS OR BENEVOLENT SOCIETY. It shall be lawful for any such association or persons as provided in the preceding section at any regular meeting thereof, or at a special meeting for that purpose called, to adopt, by a vote of two-thirds of the members thereof then present, a resolution to the following effect: Procedure.

'Resolved. That the trustees of this (church, synod, presbytery, conference, assembly, lodge, grand lodge, or other association, as the case may be), to-wit: (A, B, C, D, etc., giving the names of the duly elected trustees or directors) be and are hereby authorized to incorporate this (church, synod, presbytery, conference, assembly, lodge, grand lodge, or other association, as the case may be), and for that purpose to file with the proper officer articles of incorporation as required by law.' The trustees or directors named in such resolution must conduct the affairs of the corporation so formed until their successors are elected and qualified. In case two or more of the associations mentioned in this chapter own or are desirous of owning real or personal property conjointly, and managing the same conjointly, where pecuniary profit is not the object, they may each, by resolution adopted in the same manner as hereinabove provided in this section, instruct their trustee or director, or trustees or directors respectively, to act in conjunc- Form of resolution. Trustees to conduct business.

HeinOnline -- 1923 279 1923

tion in incorporating under the provisions of this chapter and in the articles of incorporation, or in their respective by-laws, may provide for the annual election of the trustees of the corporation who shall succeed those named in the articles of incorporation. In case three or more persons are desirous of forming a corporation under the provisions of this Act for charitable or benevolent purposes and where pecuniary profit is not the object, they may by resolution adopted and prescribed by them set forth the purposes and objects of such benevolent corporation designating the number and term of the trustees and authorize the trustees named in such resolution to file articles of incorporation as provided in this Act."

Section 3. That Section 6455 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Articles to be filed by directors.

"Section 6455. NUMBER OF DIRECTORS — ARTICLES OF INCORPORATION—POWERS. The trustees or directors, of whom there must not be less than three and not more than thirteen in the aggregate, named in such resolution or resolutions, may thereupon make, file, and record in the office of the county clerk of the county where such association or associations is or are located, if such association or associations be local or subordinate associations, or in the office of the secretary of state, if such association be a state, representative, supervisory, governing, or grand organization or body, articles of incorporation, and must attach to such articles a copy of the resolution or resolutions provided for in the preceding section, certified to by the president or other presiding officer, and the secretary or other recording officer of such meeting or other meetings. In lieu of the requirements of Section 5905, of this Code, such articles of incorporation must contain the following:

Resolutions.

Contents of articles.

1. The name of the corporation.
2. The purpose for which it is organized.
3. The number of trustees or directors for the first year of the corporate existence of such incorporation.

Powers of corporations.

"Corporations so organized may have continual succession, have a common seal, elect all necessary officers, adopt by-laws not inconsistent with law, and enforce the same by appropriate penalties, and have the same rights as other corporations in prosecuting and defending suits at law; may take and hold by purchase, gift,

HeinOnline -- 1923 280 1923

devise, or bequest, either real or personal property or both, or carry out the obligations or provisions of any trust imposed by will or deed of trust, or otherwise, where the trust is created for any charitable purpose, public or private, and where the same is not repugnant to any law of this state, or may give away, or otherwise dispose of, any property of any kind for the purposes of dispensing charity either public or private or for any helpful, worthy or lawful object contemplated by the provisions of this Act, and may use or dispose of any property of any kind for the purposes only for which such corporation was formed.

Section 4. All Acts and parts of Acts in conflict herewith be, and the same are hereby repealed.

Section 5. This Act shall take effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 113.

An Act to Amend Section 10256 of the Revised Codes of Montana, 1921, Relating to Leasing by Executors and Administrators of Realty Belonging to Estates of Deceased Persons and Obtaining Order of Court Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 10256 of the Revised Codes of the state of Montana, 1921, be amended to read as follows:

"Section 10256. OBTAINING ORDER TO LEASE. To obtain an order to lease the realty, the proceedings to be taken and the effect thereof shall be as follows: Procedure to obtain order.

1. The executor, administrator, or any person interested in the estate, may file a verified petition showing: The advantage or advantages that may accrue to the estate from giving a lease; a general description of the property proposed to be leased; the term, rental, and general conditions of the proposed lease; and the names of the legatees and devisees, if any, and of the heirs of the deceased, so far as known to the petitioner. Petition.

2. Upon filing such petition an order must be made by the court or judge, requiring all persons interested in the estate to appear before the court or judge, at a time and place specified, not less than two nor more Order to show cause.

HeinOnline -- 1923 281 1923

than four weeks thereafter, then and there to show cause why the realty (briefly indicating it) should not be leased for the period (stating it), at the rental mentioned in the petition (stating it), and referring to the petition on file for further particulars.

Service and posting.

3. The order to show cause must be personally served on the persons residing in the county interested in the estate, at least ten days before the time appointed for hearing the petition, or be published for two successive weeks in a newspaper of general circulation published in the county.

Hearing of petition.

4. At the time and place appointed in the order to show cause, or such other time and place to which the hearing may be postponed, the court or judge having first received satisfactory proof of personal service or publication of the order to show cause, must proceed to hear the petition, and any objections that may be filed or presented thereto. Upon such hearing, witnesses may be compelled to attend and testify in the same manner and with like effect as in other cases, and the court or judge may, in its or his discretion, appoint one or more, not exceeding three, disinterested persons to appraise the rental value of the premises, and direct that a reasonable compensation for their services, not to exceed five dollars per day, be paid by the estate. If, after a full hearing, the court or judge is satisfied that it will be for the advantage of the estate to lease the whole or any portion of the real estate, an order must be made

Order.

authorizing, empowering, and directing the executor or administrator to make such lease. The order may prescribe the minimum rental to be received for the premises, and the period of the lease, which must in no case

Limit as to period of lease.

be longer than for five years, except that a lease or contract providing for the exploration of the premises for oil, gas or hydrocarbons may provide for a term of five years or for as long thereafter as oil, gas or hydrocarbons shall be produced in commercial quantities, and may prescribe the other terms and conditions of such lease.

Execution and approval of lease.

5. After the making of the order to lease, the executor or administrator must execute, acknowledge, and deliver a lease of the premises, for the rent, and period, and with the conditions specified in the order, such lease before it shall become effective shall be approved by the court or judge thereof before delivery, setting forth in the lease that it is made by authority of the

HeinOnline -- 1923 282 1923

order, and giving the date of such order. A certified copy of the order shall be recorded in the office of the county clerk of every county in which the leased land, or any portion thereof, lies.

Effect of lease.

6. Every lease so made shall be effectual to demise and let, at the rent, for the term, and upon the conditions prescribed therein, the premises described therein. Jurisdiction of the court to administer the decedent's estate shall be effectual to vest such court and judge with jurisdiction to make the order for the lease, and such jurisdiction shall conclusively inure to the benefit of the lessee, his heirs and assigns. No omission, error, or irregularity in the proceedings impairs or invalidates the same, or the lease made in pursuance thereof."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 114.

An Act to Amend Section 5159 of the Revised Codes of Montana of 1921 Relating to the Appointment of Boards of Park Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5159 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

Indebtedness to secure parks authorized.

"5159. PUBLIC PARKS AND GROUNDS—ADDITIONAL INDEBTEDNESS OF MUNICIPALITIES TO PROVIDE. A city or town council, or commission, in addition to the power it now has under the law, has and is hereby granted and given the further power to contract an indebtedness on behalf of a city or town, upon the credit thereof, by borrowing money or issuing bonds for the purpose of purchasing and improving lands for public parks and grounds; provided, that the total amount of indebtedness authorized to be contracted in any form, including the then existing indebtedness, must not at any time exceed three per centum of the per centum of the total assessed valuation of the taxable property of the city or town, as ascertained by the last assess-

HeinOnline -- 1923 283 1923

Limitation. ment for state and county taxes; and provided, further, that no money must be borrowed on bonds issued for the purchase of lands and improving same for public
Vote of Electors. parks and grounds until the proposition has been submitted to the vote of the taxpayers of the city or town affected thereby, and a majority vote cast in favor thereof.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its final passage.

Approved March 7, 1923.

CHAPTER 115.

An Act to Authorize the State Treasurer to Transfer Certain Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

War defense fund. Section 1. The State Treasurer is authorized to transfer the unexpended balance in the War Defense Fund to the War Defense Interest and Sinking Fund.

War defense interest and sinking fund to general fund. Section 2. That after the payment of the War Defense Bonds that mature on March 20th, 1923, and all interest coupons thereto attached the State Treasurer shall transfer any balance in the War Defense Interest and Sinking Fund to the State General Fund.

Monies received after Mar. 30, 1923. Section 3. That any moneys received by the State Treasurer for the credit of the War Defense Interest and Sinking Fund after March 30th, 1923, shall be credited directly to the State General Fund.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 116.

An Act Amending Sections 11071, 11075 and 11079 of the Revised Codes of Montana of 1921, Relating to the Manufacture, Sale and Use of Intoxicating Liquors, and Enacting and Adding to Chapter 29 of the Penal Code of the Revised Codes of Montana of 1921 a New Section to Be Numbered and Designated as Section

HeinOnline -- 1923 284 1923

11048A, Prohibiting the Sale, Exchange, Gift, Barter, or Disposal of Any Ardent Spirits, or Any Compound Thereof, Capable of Use as a Beverage, or Any Ale, Beer, Wine, or Intoxicating Liquor of Any Kind, in the State of Montana, and Prohibiting the Manufacture, or Introduction of Any Intoxicating Liquor Into This State, and Providing Penalties for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 11071 of the Revised Codes of Montana of 1921 be, and the same is, hereby amended so as to read as follows:

"11071. COMPLAINT. SEARCH WARRANT, FORMS AND ISSUANCE. Whenever complaint is made in writing, verified by affidavit, to any judge having cognizance of criminal offenses, or any justice of the peace, that complainant has just and probable cause to believe and does believe, that intoxicating liquor is manufactured, kept for sale, sold, exchanged, used or disposed of, in violation of any law of this State, in any house, building, premises, boat, receptacle, or any other place whatsoever (partially describing and designating the same) with the facts upon which such belief is based, the Judge or Justice may, with the approval of the County Attorney, issue a search warrant as hereinafter provided; provided, however, no search warrant shall issue to search any private dwelling occupied as such unless being used for the unlawful sale or manufacture of intoxicating liquor, or unless it is in part used for some business purpose such as store, shop, saloon, restaurant, hotel or boarding-house. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently, but solely as a residence in an apartment house, hotel or boarding-house. Such search warrant shall be directed to any peace officer in the County, commanding him to search the premises designated and described in such complaint and warrant, and to seize all intoxicating liquors there found, together with the vessels in which it is contained, and other equipment such as safes, cash registers, bars, back bars, cigar cases, merchandise and goods, and all implements, furniture, fixtures, and other articles used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing, or otherwise disposing of such liquor, and to safely keep the same, and to make return

Complaint.

Search warrant to issue.

Private dwelling defined.

Contents of search warrant

HeinOnline -- 1923 285 1923

of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all liquor, implements, furniture, fixtures, and other articles seized, and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of the same, the return shall so state. A copy of said warrant shall be served upon the person or persons found in possession of any such intoxicating liquor, furniture, fixtures, or articles so seized, and if no person be found in possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same were found, or if there be no door, then in any conspicuous place on the premises.

Service and posting of warrant.

Such complaint may be substantially in the following form:

Form of complaint.

State of Montana, County of .....ss.

Complaint for Search Warrant.

The complaint and affidavit of .....(Name of complainant) of .....(His residence), made before .....(Name of officer), one of the ..... (Official title of officer), in and for ....(township, county, city or village, as the case may be) on this.....day of ....., 19....., who, being first duly sworn, on oath says: That he has just and probable cause to believe, and does believe, that intoxicating liquor is now unlawfully.....(manufactured, kept for sale, sold, used or disposed of as the case may be) to-wit: at and within a certain..... .....(here describe the house, building, premises, boat, receptacle or other place to be searched, with particulars as to its location sufficiently to identify it, stating the name of the person occupying the same, if known) in the .....(city, village or town) of ..... in the county and state aforesaid; and that the following are the reasons for his belief, to-wit:.....(here insert the facts upon which such belief was based).

Wherefore he prays that a search warrant may be issued according to law.

.....

(Signature of Complainant.)

Subscribed and sworn to before me this.....day of.....

.....

(Official Title of Officer.)

HeinOnline -- 1923 286 1923

Such search warrant may be substantially in the form prescribed in Section 12400 of this Code.

Fluid when evidence.

If, while any place or premises is being searched as herein provided for, or while any person is being, or is about to be, arrested, any fluid is poured out of any bottle or other container at such place or on such premises, by the owner or by any person in whose custody it is, in order to prevent any investigation or seizure thereof, said fluid shall be held to be prima facie intoxicating liquor and intended for unlawful use, sale, barter, exchange or gift."

Section 2. That Section 11075 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended so as to read as follows:

Penalty.

"Section 11075. PENALTY FOR VIOLATION OF ACT AND FALSE REPORT. Any person who manufactures, sells, barters, transports, imports, exports, delivers, furnishes, or possesses any intoxicating liquor, in violation of any of the laws of the State of Montana, relating to intoxicating liquors, shall, for the first offense, be fined not less than Two Hundred ($200.00) Dollars, nor more than One Thousand ($1,000.00) Dollars, and be imprisoned in the county jail not less than sixty days nor more than six months, and for a second or subsequent offense shall be fined not less than Three Hundred ($300.00) Dollars nor more than Two Thousand ($2,000.-00) Dollars, and be imprisoned not less than six months nor more than two years in the state prison.

Special penalty.

Any person who violates any of the provisions of such laws, for which offense a special penalty is not prescribed, shall be fined for a first offense not more than Five Hundred ($500.00) Dollars; for a second offense, not less than One Hundred ($100.00) Dollars or more than One Thousand ($1,000.00) Dollars, and be imprisoned not less than sixty days nor more than six months, and for any subsequent offense, he shall be fined not less than Five Hundred ($500.00) Dollars and be imprisoned in the state prison for not less than one year nor more than two years. It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted, and to plead the prior conviction in the affidavit, information, or indictment.

Pleading of prior conviction.

Lien of judgment.

Judgment for fine and costs imposed by the court for violation of any of the provisions of this Act shall be a lien upon the premises where a breach of the law takes

HeinOnline -- 1923 287 1923

place, if such breach was committed by the owner or by another with the owner's knowledge, assent or acquiescence.

Injunction.

If any person shall be convicted in a criminal action of violating any of the provisions of this Act, an injunction shall be issued perpetually enjoining said person from thereafter violating the provisions of said Act the same as though a formal application for an injunction had been applied for."

Section 3. That Section 11079 of the Revised Codes of Montana of 1921 be, and the same is, hereby amended so as to read as follows:

Possession as prima facie evidence.

"Section 11079. POSSESSION PRIMA FACIE EVIDENCE BURDEN OF PROOF, COMPROMISE OF ACTION.

After the passage and approval of this Act, the possession of liquors by any person not legally permitted under this Act to possess liquor shall be prima facie evidence that such liquor is kept for the purpose of being sold, bartered, exchanged, given away, furnished or otherwise disposed of in violation of the provisions of this Act; but it shall not be unlawful to possess liquors in one's private dwelling while the same is occupied and used by him as his dwelling only, provided such liquors are for use only for the personal consumption of the owner thereof and his family residing in such dwelling, and the burden of proof shall be upon the possessor in any action concerning the same to prove that such liquor was lawfully acquired, possessed and used.

Proviso.

Compromise of actions.

The Attorney General or the County Attorney of any county in which any action or proceeding is pending, may compromise any civil cause arising under this title before bringing action in court, and he may compromise any such cause after the action thereon has been commenced."

Section 4. That Section 11084 of the Revised Codes of Montana of 1921 be, and the same is, hereby amended so as to read as follows:

Law enforcement fund.

"Section 11084. LAW ENFORCEMENT FUND. APPLICATION. There is hereby created a fund known as the "Law Enforcement Fund." All fines must be applied to the payment of the costs of the case in which the fine is imposed, as hereafter provided, and after such costs are so deducted from the fine by the Clerk of the Court to whom such fine has been paid, the balance of such fine and all other receipts from penalties,

HeinOnline -- 1923 288 1923

confiscations and forfeitures for violation of the law relating to intoxicating liquors, and from the sales of all property seized, confiscated and sold under such laws, shall be paid over to the County Treasurer of the County in which such violation or sale occurred, and such County Treasurer shall credit fifty per cent to the general fund of the county, and the remaining fifty per cent thereof shall be by said County Treasurer transmitted to the State Treasurer, and by such State Treasurer deposited to the credit of the Law Enforcement Fund. Disposal.

The term "Costs" as herein used shall mean to include all costs incurred in connection with the securing of evidence against, and the arrest of the defendant or defendants." Costs defined.

Section 5. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 7, 1923.

CHAPTER 117.

An Act to Amend Section 4824 of the Revised Codes of Montana, 1921, Relating to the Office of County Auditor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4824 of the Revised Codes of Montana 1921, be, and the same is hereby amended to read as follows:

Section 4824. The office of County Auditor is hereby created and the same shall exist in all counties of the State of Montana of the first, second, third and fourth classes. Provided, however, that in counties of the 5th class where a County Auditor has been elected he shall hold office until the expiration of his present term, but no longer. Auditors in 5th class counties discontinued when.

Section 2. That hereafter the duties heretofore performed by Auditors in counties in which they shall have been elected, shall be performed by the same officers charged with the performance of those duties in counties below the Fifth Class. Duties, how performed.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

HeinOnline -- 1923 289 1923

CHAPTER 118.

An Act to Amend Section 4268 and 4270 of the Revised Codes of Montana of 1921, Relating to the Classification and Quality of Apples and Defining Grades and Standard of Apples.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4268 of the Revised Codes of 1921, be, and the same is hereby amended to read as follows:

Classification and quality.

"Section 4268. That the apples contained within the box when so packed and offered for sale shall be reasonably uniform in size and free from worms, scale or fungus disease, except as otherwise specified."

Section 2. That Section 4270 of the Revised Codes of 1921, be, and the same is hereby amended to read as follows:

Grades and standards defined.

"Section 4270. Grades and Standards of Apples Defined. Boxes packed with apples and marked "standard" shall be deemed to be misbranded within the meaning of this Act."

First. If the size of the box does not conform to the requirements of Section 4265 of this Code.

Second. If the markings of the box do not conform to the markings required by Section 4267 of this Code.

Third. If the size and condition of the apples does not conform to the requirements of Section 4268 of this Code.

Fourth. That the grade of apples contained in the box or boxes shall be as follows, to-wit: Extra Fancy, Fancy, "C" Grade, Combination Grade and Orchard Run Grade.

"Extra Fancy" apples shall be mature, clean, smooth, well-formed, apples only, free from all insect pests, diseases, bruises and holes, spray burn, limb rub, visible water-core, skin punctures or skin broken at stem, shall be free from russeting except russeting within the cavity of the stem shall be permitted.

"Fancy" apples are defined as apples complying with the standard of the Extra Fancy except that leaf rub, slight scratches and russeting shall be permitted up to five per cent of the surface of the apple. Apples carrying Extra Fancy color requirements characteristic of the variety showing either fine pin point scab in cavity

HeinOnline -- 1923 290 1923

or basin; limb rub, not to exceed one-half inch in diameter; or two healed-over worm stings may be permitted in this grade.

"C" Grade. Apples are defined as all those merchantable apples which are mature, free from infection, soft bruises and broken skin. Provided, that this grade may include healed-over stings and scab spots not to exceed one-quarter inch in the aggregate. Color requirements not considered in this grade. Apples in this grade shall not be marked "Choice."

"Combination Grade." When Extra Fancy and Fancy Apples are packed together the boxes must be marked "Combination Extra Fancy and Fancy." When Fancy and "C" grade are packed together the boxes must be marked "Combination Fancy and 'C' grade." Combination grades must contain at least twenty-five (25) per cent of apples which belong to the higher grade in the combination.

"Orchard Run" grade shall consist of Extra Fancy, Fancy and "C" grade apples packed in combination. Boxes so marked must contain at least fifteen (15) per cent of apples of Extra Fancy grade and not more than fifty (50) per cent of "C" grade. No apples failing to meet the requirements of "C" grade shall be permitted in this grade.

Sizes of apples.

No apples smaller than two (2) inches in diameter shall be permitted in any grade. Small apples which are under the size requirements as prescribed may be shipped marked "Small," provided such apples are free from injurious insect pests and diseases.

Tolerance established.

In order to provide for variations incident to commercial grading and handling a tolerance of ten (10) per cent for a total of all defects from the standard of the grade shall be allowed."

Penalty.

"Section 2A. Any person or persons failing to make the inspections as provided in this Act shall be deemed guilty of malfeasance of office."

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in force and effect after its passage and approval.

Approved March 7, 1923.

HeinOnline -- 1923 291 1923

CHAPTER 119.

An Act to Amend Sections 5097, 5098, 5099, 5100, 5101 and 5106 of the Revised Codes of Montana of 1921, Prescribing the Qualifications of Policemen in Cities, Their Term of Office, the Method of Their Appointment, Trials for Misconduct or Malfeasance in Office, Their Suspension or Discharge, and to Provide for the Creation of a Police Commission to Examine All Applicants and to Try and Determine All Charges Filed Against Policemen, and Prescribing the Method of Review and Appeal of Any Sentences Imposed, and Defining Who Are on the Eligible List for Service.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5098 of the Revised Codes of Montana of 1921, be, and the same is hereby, amended and re-enacted to read as follows:

Police Commission appointment

Section 5098. In Cities of the first class the Mayor shall nominate, and with the consent of the City Council appoint three residents of such city, who shall have the qualifications required by law to hold a municipal office therein, and who shall constitute a board to be known by the name of "Police Commission" who shall hold office for three years, and that one such member must be appointed annually, at the first regular meeting of the City Council in May of each year. Provided, that at the first meeting of the Council in the month of May after the passage of this Act, the Mayor, subject to the approval of the council, shall appoint three members of such police commission, one to serve for one year, one for two years and one for three years from the date of their appointment and confirmation.

Term.

Compensation.

The compensation of the members of such Board shall be fixed by the City Council, not to exceed ten dollars per day, nor more than fifty dollars per month for any month for each member in cities of the first class.

The Council of any town or city, other than a city of the first class, may provide by ordinance for such a Police Commission in any such city or town.

Section 2. That Section 5097 of the Revised Codes of Montana of 1921, be, and the same is hereby, amended and re-enacted to read as follows:

Appointment and confirmation.

Section 5097. (Terms of members of the Police force.) All appointments to the police force must be appointed

HeinOnline -- 1923 292 1923

by the Mayor and confirmed by the City Council, but no such appointment must be made, until an application for such position on the Police Force has been filed with the Mayor, and by him referred to the Police Commission, where such commission exists, and such applicant has successfully passed the examination required to be held by such police commission, and a certificate from such police commission that the applicant has qualified for such appointment has been filed with the Mayor. Every applicant who has passed such examination and received such certificate must first serve for a probationary term of not more than six months. At any time before the end of such probationary term, the Mayor may revoke such appointment. After the end of such probationary period, and within thirty days thereafter, the appointment of such applicant must be submitted to the City Council, and if such appointment is confirmed by the City Council, such applicant becomes a member of the police force, and shall hold such position during good behavior, unless suspended or discharged as provided by law.

Examination.

Revocation of appointment.

Section 3. That Section 5099 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended and re-enacted to read as follows:

Section 5099. (Examination of applicants for position on police force.) All applicants for positions on the police force, whose application shall have been referred to the Police Commission, shall be required successfully to undergo an examination before the Police Commission, and to receive a certificate from said Commission that the applicant is qualified for such appointment for the probationary period upon the police force.

Examination.

It shall be the duty of the Police Commission to examine all such applicants as to their age, legal, mental, moral and physical qualifications, and their ability to fill the office as a member of the police force, it shall also be the duty of the Police Commission subject to the approval of the Mayor, to make such rules and regulations regarding such examinations not inconsistent with this act or the laws of the State.

Any applicant who shall make any false statement to the Police Commission as to his age or other qualifications required, at his examination before the police commission, shall be subject to suspension or dismissal from the police force, after trial.

Penalty for false statement.

HeinOnline -- 1923 293 1923

Section 4. That Section 5100 of the Revised Codes of Montana of 1921, be, and the same is hereby, amended and re-enacted to read as follows:

Charges, presentation and trial.

Section 5100. (Presentation and trials of charges against policemen.)

The Police Commission shall have the jurisdiction, and it shall be its duty to hear, try and decide all charges brought by any person or persons against any member or officer of the police department, including any charge that such member or officer is incompetent, or by age or disease, or otherwise, has become incapacitated to discharge the duties of his office, or has been guilty of neglect of duty, or of misconduct in his office, or of conduct unbecoming a police officer or has been found guilty of any crime, or whose conduct has been such as to bring reproach upon the police force.

Charge to be in writing.

Any charge brought against any member of the police force must be in writing in the form required by the Police Commission and a copy thereof must be served upon the accused officer or member at least three days before the time fixed for the hearing of such charge.

Trial, how conducted.

It is the duty of the Police Commission at the time set for hearing a charge against a police officer, to forthwith proceed to hear, try and determine the charge according to the rules of said Police Commission. The accused shall have the right to be present at the trial in person and by counsel, and to be heard, and to give and furnish evidence in his defense. All trials shall be open to the public.

Powers of chairman.

The chairman, or acting chairman, of the Police Commission, shall have power to issue subpoenas, attested in its name, to compel the attendance of witnesses at the

Subpoenas.

hearing and any person duly served with a subpoena is bound to attend in obedience thereto, and the Police Commission shall have the same authority to enforce obedience to the subpoena, and to punish the disobedience thereof, as is possessed by a Judge of the District Court in like cases.

Decision.

The Police Commission must, after the conclusion of the hearing or trial, decide whether the charge was proven or not proven, and shall have the power, by a decision of a majority of the Commission, to discipline, suspend, remove or discharge any officer who shall have been found guilty of the charge filed against him.

HeinOnline -- 1923 294 1923

Such action of the Police Commission shall, however, be subject to modification or veto by the Mayor, made in writing, giving the reasons therefor, which shall become a permanent record of the Police Commission. Mayor may modify order.

The findings and decisions of the Police Commission shall be final and conclusive unless modified or vetoed by the Mayor, within five days from the date of the filing of such findings and decision with the city clerk. Findings, when conclusive.

When a charge against a member of the police force is found proven by the Board, and is not vetoed by the Mayor, the Mayor must make an order enforcing the decision of the Board, or if modified by the Mayor, then such decision as modified, and such decision or order shall not be subject to review by any Court on a question of fact. Mayor to make order.

The District Court of the proper county shall have jurisdiction, however, in a suit brought by an officer or member of the police force, to determine whether the essential requirements of law as to the method of trial have been complied with, but no suit to review such hearing or trial or for re-instatement to office shall be maintained unless the same is begun within a period of sixty days after the decision of the Police Commission or order of the Mayor has been filed with the city clerk, and in no case shall any officer or member who has been suspended or discharged, or placed upon the eligible list, be entitled to any salary or other emoluments of office, during the period of suspension, or during the time he remains upon the eligible list, or from the date of his discharge by the Police Commission or the Mayor, to the time of his re-instatement if the Court should finally find he was entitled to be re-instated. No Court shall have jurisdiction to hear or determine any question or controversy concerning the salary or compensation of any member of the police force now or hereafter accrued, except for services actually rendered. Jurisdiction of district courts. Suspension of salary, when.

In no case shall any officer or member of the police force, be discharged without a hearing or trial before the Police Commission, as herein provided, in all cities of the first class. Trial guaranteed.

The Mayor or chief of police, subject to the approval of the Mayor, shall have the power in all cases, to suspend a policeman, or any officer, for a period of not exceeding ten days in any one month, without any hearing or trial, such suspension to be with or without pay Mayor may suspend, when.

HeinOnline -- 1923 295 1923

as the order of suspension may determine. The Mayor of any city shall have the power and authority at any time when he deems it expedient to employ not to exceed two persons at one time for a period not to exceed thirty days to do police duty who are not members of the police department.

Section 5. That Section 5101 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended and re-enacted to read as follows:

City council to limit numbers of officers.

Section 5101. (Defining active and eligible list of Officers.) The City Council shall have absolute and exclusive power to determine and limit the number of police officers and members to comprise the police force of any city, and to divide the police membership into two lists, one and active list, who are to be actually employed and receive pay while so employed, and one and eligible list, who shall not receive pay, while not actually employed as an officer, or member, and to reduce the number of the police force at any time. That such officers or members of the active list, temporarily relieved, from duty, shall become members of the eligible list without pay and shall be first entitled to re-instatement on the active list, in case of vacancy, according to their seniority in the service, and all others on the eligible list shall be entitled to fill a vacancy, in the order of their appointment. Such action of the Council shall not be subject to review by any Court.

Vacancies, how filled.

Limitation.

In no event shall there by any officers or members placed on the eligible list, except in case of temporary reduction of the police force, when the number already on the eligible list shall equal in number twenty per cent of the active list.

Section 6. That Section 5106 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended and re-enacted to read as follows:

Qualifications of officers.

Section 5106. (Qualifications of Police Officers.) The members of a police department of any city, at the time of their appointment under this act, shall not be less than twenty-one years of age nor more than forty years of age, but this restriction shall not apply to any member of any present police department, provided however, that any city council shall have the power by ordinances duly passed and approved to retire any police officer on half pay, who shall have arrived at the age of sixty-five

Retirement, when.

HeinOnline -- 1923 296 1923

years, or who shall have served continuously as a police officer for a period of not less than twenty-five years, or who shall have become incapacitated to perform the duties of his office by reason of injury or accident sustained while actually engaged in the performance of his duties as an officer.

Citizenship and residence required.

In every case a police officer must be a citizen of the United States, and have been a resident of the city or town in which he is appointed at least two years prior to such appointment, such qualifications also to apply to every officer on the eligible list, at the time he shall be transferred to the active list.

Language qualifications.

Every police officer must be able to speak and write understandingly the English language.

Section 7. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Section 8. This Act shall take effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 120.

An Act Providing for the Incarceration of Prisoners Committed Under Process or Order Issued Under the Authority of the United States in County Jails, Making It the Duty of the Sheriff to Receive Such Prisoners, Making Provision for the Support of Such Prisoners, and Repealing Section 12,472 of the Revised Codes of Montana of 1921 and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sheriff to receive federal prisoners, when.

Section 1. The sheriff must receive, and keep in the county jail, any prisoner committed thereto by process or order issued under the authority of the United States, until he is discharged according to law, as if he had been committed under process issued under the authority of this state.

Support of prisoners.

Section 2. Provision and agreement for the support of such prisoners shall first be made by the United States through or by the proper officer or officers by a written agreement, signed by the sheriff of such county, and

HeinOnline -- 1923 297 1923

approved by the Board of Commissioners, upon the following terms and conditions:

Fees for support and for use of jail.

The United States shall pay to the sheriff of the county wherein such prisoners are committed the regular fees allowed per day to such sheriff by the laws of this state for the support and subsistence of state prisoners, and, in addition thereto, shall pay into the county treasury of the county in which such jail is situated the sum of twenty-five cents per day for the use of the jail and for the purpose of defraying in part the expenses incident to lighting, heating and caring for such jail, and for the upkeep thereof.

Repealing clause.

Section 3. That Section 12,472 of the Revised Codes of Montana of 1921, and all acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall take effect and be in full force and effect from and after the first day of April, 1923.

Approved March 7, 1923.

CHAPTER 121.

An Act Authorizing and Providing for the Consolidation and Merging of the Corporate Existence and Government of any County in the State and of all Cities and Towns Situated Therein Into One Municipal Corporation and Government, Defining the Powers Thereof and Providing a Commission-Manager Plan of Government therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Merger of county and city government authorized.

Section 1. The separate corporate existence and government of any county and of each and every city and town therein may be abandoned and terminated and such county and each and all of the cities and towns therein may be consolidated and merged into one municipal corporation and government under this act by proceeding as hereinafter provided.

Question, how submitted.

Section 2. The question of the abandonment and termination of the separate corporate existence and government of a county and of each and every city and town therein and the consolidation and merging of the existence and government of such county and each and all of the cities and towns therein into one municipal

HeinOnline -- 1923 298 1923

corporation and government, under the provisions of this act, shall be submitted to the qualified electors of such county if a petition be filed in the office of the county clerk of such county, signed by at least twenty per centum (20%) of the electors of said county whose names appear on the official register of voters of the county on the date of the filing of such petition, requesting that such question be submitted to the qualified electors of the county. Petition.

Section 3. Such petition shall be substantially in the form and shall be signed, verified and filed in the manner prescribed in this act for initiative, referendum and recall petitions, and shall designate therein the name by which such consolidated government is to be known, which must be either that of the county or of some one of the cities or towns therein. If the county clerk shall find that such petition, or amended petition, so filed, is signed by the required number of qualified electors he shall so certify to the board of county commissioners of such county at their next regular meeting, and such board shall thereupon, and within ten days after receiving the clerk's certificate, order a special election to be held at which election such question shall be submitted to the qualified electors of the county. Such order shall specify the time when such election shall be held, which shall be not less than ninety nor more than one hundred and twenty days from and after the day when such order is made, and the board of county commissioners shall immediately upon making such order issue a proclamation setting forth the purpose for which such special election is held and the date of holding the same, which proclamation must be published and posted in the manner prescribed by Section 535 Revised Codes of Montana of 1921. Form of petition. County clerks to certify. Special election to be ordered. Publication.

Section 4. At such election the ballots to be used shall be printed on plain white paper, shall conform as nearly as possible to the ballots used on general elections, and shall have printed thereon the following. Ballots.

"Shall the corporate existence and government of the County of ..... and of each and every city and town therein be consolidated and merged into one municipal corporation and government under the provisions of Chapter (giving the number of this Act), Acts of the Eighteenth Legislative Assembly of the State Form of ballot.

HeinOnline -- 1923 299 1923

of Montana, to be known and designated as 'City and County of .....'?''

☐ YES.

☐ NO.

Conduct of election.

Such election shall be conducted, vote returned and canvassed and result declared in the same manner as provided by law in respect to general elections.

Special election to be ordered, when.

Section 5. If the majority of the votes cast at such election shall be in favor of such consolidation and merging, the board of county commissioners of such county must, within two weeks after such election returns have been canvassed, order a special election to be held for the purpose of electing the number of members of the commission to which such consolidated municipality shall be entitled, which order shall specify the time when such election shall be held, which shall be not less than ninety nor more than one hundred and twenty days from and after the day when such order is made, and the board of county commissioners, immediately upon making such order, shall issue a proclamation setting forth the purpose for which such special election is held and the date of holding the same, which

Proclamation.

proclamation must be published and posted in the manner prescribed by Section 535, Revised Codes of Montana, 1921; provided, however, that if any general election is to be held in such county after three months but within six months from the date of the making of such order then such order shall require such special election

Nomination of candidates, how.

to be held at the same time as such general election. No primary election shall be held for the purpose of nominating candidates for members of the commission hereinafter provided for, to be voted for at such special election, but such candidates shall be nominated directly by petition which shall be in substantially the same form and be signed by the same number of signers as hereinafter required for primary nominating petitions. Such

Conduct of election.

election shall be conducted, vote returned and canvassed and result declared in the same manner as provided by law in respect to general elections.

Powers of consolidated municipalities.

Section 6. The inhabitants of every consolidated municipality organized under the provisions of this act, as

HeinOnline -- 1923 300 1923

its limits are at the time of such organization, or as they may be thereafter established as provided by law, shall be a body politic and corporate under the designation and name as adopted at the election providing for such consolidation and merging, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; may contract and be contracted with; may acquire property within or without the boundaries of the municipality for any municipal purpose, in fee simple, or lesser interest or estate, by purchase, gift, devise, appropriation, lease or lease with privilege of purchase, and may sell, lease, hold, manage and control such property as the interest of the municipality may require; levy and collect such taxes as are authorized by this Act or by the general laws of the state; and, except as otherwise provided in this act, such municipality shall have and may exercise all other powers that are now or hereafter may be conferred on counties, cities and towns by the laws of this state. All powers of the municipality, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this act. or in the general laws of the state, or when not so prescribed, then as may be prescribed by ordinance or resolution of the commission.

Powers, how exercised.

Section 7. Except as otherwise provided in this act all powers of the consolidated municipality shall be vested in a commission, and for the purpose of determining the number of members composing such commission, consolidated municipalities organized under the provisions of this act shall be classified and all of the provisions of Sections 4741 and 4742 of the Revised Codes of Montana of 1921, governing and controlling the classification of such consolidated municipalities. In consolidated municipalities of the first class such commission shall consist of seven members; in consolidated municipalities of the second, third and fourth classes of five members; and in consolidated municipalities of the fifth, sixth, seventh and eighth classes of three members. The term of office of members of the commission shall be four years and shall commence on the first day of July following their election; provided, however, that the terms of office of the members first elected at such special election shall commence on the first day of the third month following their election, and the terms of

Commission.

Number of.

Term.

HeinOnline -- 1923 301 1923

office of a majority of such members first elected, to be determined by lot, shall expire on the last day of June in the first year following their election, and the terms of the remaining members first elected shall expire on the last day of June in the third year following their election. If a vacancy occur in the commission, except as the result of a recall election, some eligible person shall be chosen by a majority vote of the remaining members to fill the place for the unexpired term. Members of the commission must be qualified electors of the consolidated municipality and must be the owners of real estate situated therein to the value of not less than one thousand dollars, and shall not hold any other public office except that of notary public or member of the state militia. A member of the commission ceasing to possess any of the qualifications specified in this section shall immediately forfeit his office.

Vacancies.

Qualifications.

Meeting and organization of commission.

Section 8. At 2 o'clock p. m. on the last day of June following a regular municipal election the commission shall meet at the court-house in the consolidated municipality and the newly elected members shall assume the duties of office; provided, however, that the first meeting of such commission, after the special election at which the first members of the commission are elected, shall be held at 2 o'clock p. m. on the first day of the third month following such special election, and at such meeting the members of such commission shall determine by lot the members whose terms will expire on the last day of June in the first year following such special election and the members whose terms will expire on the first day of July in the third year following such election. Thereafter the commission shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once in each month. Special meetings shall be called by the clerk of the commission upon written request of the president, the manager, or a majority of the members of the commission. Any such notice shall state the subject to be considered at the meeting and no other subject shall be considered at such meeting. All meetings of the commission, and of committees thereof, shall be open to the public and the rules of the commission shall provide that citizens of the municipality shall have a reasonable opportunity to be

First meeting.

Special meetings.

Notice of meeting.

Meetings to be public.

HeinOnline -- 1923 302 1923

heard at any such meeting in regard to any matter considered thereat.

Commission to determine rules etc.

Section 9. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly behavior and, by vote of not less than two-thirds of its members, may expel a member for disorderly conduct or the repeated violation of its rules; but no member shall be expelled unless notified of the charge against him and given an opportunity to be heard.

Expulsion of members.

Choice of officers.

Section 10. At the first meeting of the commission following the special election at which the members thereof are first elected and thereafter at its meeting on the first day of July following each general election at which members of the commission are elected, the commission shall choose one of its members as president and another as vice president. The president shall preside at meetings of the commission and shall exercise the powers and perform the duties conferred and imposed by this act and the ordinances of the municipality. He shall be recognized as the official head of the municipality for all ceremonial purposes, by the courts for serving civil processes, and by the governor for purposes of military law. In time of public danger or emergency he shall, if authorized by vote of the commission, take command of the police, maintain order and enforce the law. If a vacancy occur in the office of president, or in case of his absence or disability, the vice-president shall act as president for the unexpired term or during the continuance of the absence or disability.

Powers of president.

Vice president to act, when.

Director of finance, powers.

Section 11. The director of finance shall be ex-officio clerk of the commission and shall either in person or by deputy keep the records of the commission and perform such other duties as may be required by this act or by the commission.

Quorum.

Section 12. A majority of the members elected to the commission shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the commission shall be necessary to

Voting.

HeinOnline -- 1923 303 1923

adopt any ordinance, resolution, order or vote; except that a vote to adjourn, or regarding the attendance of absent members may be adopted by a majority of the members present.

Compensation of commissioners.

Section 13. The commission may by ordinance provide compensation for its members to be paid in equal monthly or quarterly installments; but the total amount of any such compensation for each member, shall not exceed the sum of ($400.00) per year.

Penalty for absence from meeting.

Any member absent from a regular or regularly called meeting of the commission, except on account of his own illness, shall forfeit two per centum (2%) of his annual compensation for each such absence. Absence from all regular meetings for a period of ninety days shall operate to vacate the seat of a member unless such absence be authorized by the commission. In addition to any compensation authorized by this section each member of the commission shall receive ten cents per mile for any distance, in excess of ten miles, necessarily traveled in going from and returning to his residence because of attendance upon a regular, or regularly called meeting of the commission.

Mileage.

Ordinances, regulation of.

Section 14. Ordinances and resolutions shall be introduced in the commission only in written or printed form. All ordinances or resolutions, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, except as provided in the next succeeding section of this act. Ordinances making appropriations shall be confined to the subject of appropriations. No ordinance shall be passed until it has been read on three separate days, unless the requirement of reading on three separate days has been dispensed with by a vote of not less than two-thirds of the members of the commission. The final reading shall be in full unless a written or printed copy of the measure shall have been furnished to each member of the commission prior to such reading.

Enacting clause.

The enacting clause of all ordinances passed by the commission shall be "Be it ordained by the City and County of .....," and the enacting clause of all ordinances submitted by the initiative shall be "Be it ordained by the people of the City and County of .....".

HeinOnline -- 1923 304 1923

Publication of ordinances.

Section 15. Ordinances may be revised, codified, rearranged and published in book form under appropriate titles, chapters and sections and such revision and codification may be made in one ordinance containing one or more subjects. The publication of such revision and codification in book form as aforesaid shall be held to be a sufficient publication of the ordinance or several ordinances contained in such revision and codification. Any such publication of a revision or codification of ordinances in book form shall contain a certificate of the president and clerk of the correctness of such revision, codification and publication; and such book so published shall be received in evidence in any court for the purpose of proving the ordinance or ordinances therein contained, the same and for the same purpose as the original book, ordinances, minutes or journals would be received.

Ordinances, how revised.

Section 16. No ordinance, resolution or section thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance, resolution or section thereof as revised or amended.

Ordinances, when effective.

Section 17. Ordinances making the annual tax levy, ordinances and resolutions providing for local improvements and assessments, and emergency measures shall take effect at the time indicated therein. All other ordinances and resolutions enacted by the commission shall be in effect from and after thirty days from the date of their passage. Ordinances adopted by the electors shall take effect at the time fixed therein, or, if no time is specified, thirty days after the adoption thereof. An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, health or safety, in which the emergency claimed is set forth and defined in a preamble thereto. The affirmative vote of at least two-thirds of the members of the commission shall be required to pass an emergency ordinance or resolution. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed without first submitting the application therefor to the resident freeholders in the manner provided by Section 5075 and 5076 of the Revised Codes of Montana of 1921.

Emergency ordinances.

Recording of ordinances.

Section 18. Every ordinance or resolution upon its final passage shall be recorded in a book kept for that

HeinOnline -- 1923 305 1923

purpose and shall be authenticated by the signatures of the president and clerk. Within ten days after its final passage each ordinance or resolution shall be published at least once in such manner as the commission may by ordinance provide.

Publication.

Submission of ordinances by petition.

Section 19. Any proposed ordinance, except an ordinance making a tax levy or appropriation, may be submitted to the commission by petition signed by ten per centum (10%) of the qualified electors of the municipality whose names appear on the register of voters on the date when the proposed ordinance is submitted to the commission. All petition papers circulated with respect to any proposed ordinance shall be uniform in character and shall contain the proposed ordinance in full.

Initiative petitions, submission of.

Section 20. If an initiative petition, or amended petition be found sufficient by the clerk he shall so certify and shall submit the ordinance therein set forth to the commission at its next meeting, and the commission shall at once read and refer it to an appropriate committee, which may be a committee of the whole. Provision shall be made for public hearings upon the proposed ordinance before the committee to which it is referred. Thereafter the committee shall report the ordinance to the commission, with its recommendations thereon, not later than sixty days after the date on which such ordinance was submitted to the commission by the clerk. Upon receiving the ordinance from the committee the commission shall proceed at once to consider it and shall take final action thereon within thirty days from the date of such committee report.

Changes, how submitted to voters.

Section 21. If the commission fail to pass an ordinance proposed by initiative petition, or pass it in a form different from that set forth in the petition therefor, the committee of the petitioners hereinafter provided for may require that it be submitted to a vote of the electors either in its original form or with any change or amendment presented in writing either at a public hearing before the committee to which the proposed ordinance was referred or during the consideration thereof by the commission. If the committee of petitioners require the submission of a proposed ordinance to a vote of the electors they shall certify that fact to the clerk and file in his office a certified copy of the ordinance, in the form in which it is to be submitted, within ten days after final action on such ordinance by the commission.

HeinOnline -- 1923 306 1923

Certification by clerk.

Section 22. Upon receipt of the certified copy of a proposed ordinance from the committee of the petitioners the clerk shall certify the fact to the commission at its next regular meeting. If a municipal election is to be held within six months but more than ninety days after the receipt of the clerk's certificate by the commission, such proposed ordinance shall be submitted to a vote of the electors at such election. If no such election is to be held within the time aforesaid the commission may provide for submitting the proposed ordinance to the electors at a special election to be held not sooner than ninety days after receipt of the clerk's certificate. If no municipal election be held within six months as aforsaid, and the commission does not provide for a special election, the proposed ordinance shall be submitted to the electors at the first election held after the expiration of such six months. If, when submitted to the electors, a majority of those voting on a proposed ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the municipality.

Submission to electors, when.

Effective date of initiative ordinances.

Section 23. When an ordinance proposed by initiative petition is passed by the commission in a changed or amended form, and the committee of the petitioners require that such proposed ordinance be submitted to a vote of the electors as hereinbefore provided, the ordinance as passed by the commission shall not take effect until after such vote, and, if the proposed ordinance so submitted, be approved by a majority of the electors voting thereon, the ordinance as passed by the commission shall be deemed repealed.

Initiative repealing ordinances.

Section 24. Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the commission as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published, and may be amended or repealed by the commission, as in the case of other ordinances.

Publication.

Electors may approve or reject ordinances.

Section 25. The electors shall have power to approve or reject at the polls any ordinance passed by the commission, except an ordinance making a tax levy or an emergency measure, such power being known as the referendum. Ordinances submitted to the commission and passed by the commission without change, or passed in an amended form and not required by the committee

HeinOnline -- 1923 307 1923

of the petitioners to be submitted to a vote of the electors, shall be subject to the referendum in the same manner as other ordinances. If, within thirty days after the final passage of an ordinance, a petition signed by ten per centum (10%) of the qualified electors whose names appear on the register of voters on the date when such petition is filed, shall be filed with the clerk requesting that the ordinance, or any specified part thereof, be either repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken. Referendum petitions shall contain the text of the ordinance, or part thereof, the repeal of which is sought.

Suspension.

Contents of petitions.

Certificate by clerk.

Section 26. If a referendum petition, or amended petition, be found sufficient by the clerk he shall certify that fact to the commission at its next regular meeting and the ordinance or part thereof set forth in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until approved by the electors as hereinafter provided. Upon receipt of the clerk's certificate the commission shall proceed to reconsider the ordinance or part thereof and its final vote upon such reconsideration shall be upon the question "Shall the ordinance (or part of the ordinance) set forth in the referendum petition be repealed?" If upon such reconsideration the ordinance, or part thereof, be not repealed it shall be submitted to the electors at the next municipal election held not less than ninety days after such final vote by the commission. The commission by vote of not less than two-thirds of its members may submit the ordinance, or part thereof, to the electors at a special election to be held not sooner than the time aforesaid. If when submitted to the electors any ordinance, or part thereof, be not approved by a majority of those voting thereon it shall be deemed repealed.

Reconsideration of ordinance.

Submission to voters.

Voting by ballot.

Section 27. Ordinances, or parts thereof, submitted to vote of the electors in accordance with the initiative and referendum provisions of this act shall be submitted by ballot title which shall be prepared in all cases by the director of law. The ballot title may be distinct from the legal title of any such proposed or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance or part thereof. The ballot used in voting upon

Ballot title.

HeinOnline -- 1923 308 1923

any ordinance, or part thereof, shall have below the ballot title the two following propositions, one above the other, in the order indicated: "For the ordinance" and "Against the ordinance." Immediately at the left of each proposition there shall be a square in which by making a cross mark (X) the elector may vote for or against the ordinance or part thereof. Any number of ordinances, or parts thereof, may be voted upon at the same election and may be submitted on the same ballot, but the ballot used for voting thereon shall be for that purpose only. Voting.

Section 28. In case a petition be filed requiring that an ordinance passed by the commission providing for the expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of the contract for such improvement, may be taken prior to the election. Certain preliminary acts may be done, when.

Section 29. The signatures to initiative, referendum or recall petitions need not all be appended to one paper, but to each separate petition paper there shall be attached an affidavit of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition paper the names and addresses of five electors of the municipality, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to the petition paper shall be as follows: Signatures to petitions.

State of Montana, City and County of .....,
....., being duly sworn, deposes and says that he is the circulator of the foregoing paper and that the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be. Form of affidavit.

Signed .....

Subscribed and sworn to before me this ..... day of ....., 19.....

.....
Notary Public for the State of Montana.
Residing at ....., Montana.
My Commission expires .....

HeinOnline -- 1923 309 1923

Filing of papers.

Section 30. All petition papers comprising an initiative, referendum or recall petition shall be assembled and filed with the clerk as one instrument. Within ten days after a petition is filed the clerk shall determine whether it is signed by a sufficient number of electors and shall attach thereto a certificate showing the result of his examination. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Certificate of clerk.

Amendment of petitions.

Section 31. An initiative, referendum or recall petition may be amended at any time within ten days after the making of a certificate of insufficiency by the clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The clerk shall, within five days after such amendment is filed, make examination of the amended petition and, if his certificate shall show the petition still to be insufficient, he shall file it in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Manager, appointment and powers.

Section 32. The commission shall appoint a manager, who shall be the chief executive officer of the municipality. He shall be chosen by the commission solely on the basis of his executive and administrative qualifications and need not when appointed be a resident of the municipality. No member of the commission shall, during the time for which elected, be chosen manager. The manager shall not be appointed for a definite term, but shall be removable at the pleasure of the commission. In case the commission determine to remove the manager he shall, if he so demand, be given a written statement of the reason alleged for the proposed removal and the right to be heard thereon at a public meeting of the commission prior to the date on which his final removal shall take effect, but pending and during such hearing the commission may suspend him from office. The action of the commission in suspending or removing the manager shall be final, it being the intention of this Act to vest all authority and fix all responsibility for any such

Removal.

HeinOnline -- 1923 310 1923

suspension or removal in the commission. In case of the absence or disability of the manager the commission may designate some responsible person to perform the duties of the office. The manager shall receive such compensation as may be fixed by the commission. Compensation.

Section 33. The manager shall be responsible to the commission for the proper administration of the affairs of the municipality placed in his charge and to that end shall appoint all officers and employees in the administrative service of the municipality, except as otherwise provided in this act and except as he may authorize the head of a department or office, responsible to him to appoint subordinates in such department of office. Appointments by or under the authority of the manager shall be confined to citizens of the municipality, except in such specific cases as the commission may suspend this requirement, and shall be on the basis of the ability, training and experience of the appointees in the work which they are to perform. All such appointments shall be without definite term unless for temporary service not to exceed sixty days. Appointment of officers by manager. Term of appointees.

Section 34. Any officer or employee of the municipality appointed by the manager, or upon his authorization, may be laid off, suspended or removed from office or employment either by the manager or the officer by whom appointed. Verbal or written notice of lay-off, suspension or removal given to an officer or employee, or written notice left at or mailed to his usual place of residence, shall be sufficient to put any such lay-off, suspension, or removal into effect unless the person so notified shall, within five days of such notice, demand a written statement of reasons therefor and the right to be heard thereon before the manager. Upon such demand the officer making the lay-off, suspension or removal shall supply the person notified thereof with a written statement of the reasons therefor and the manager shall fix a time and place for the public hearing. Following the public hearing the manager shall either confirm the lay-off, suspension or removal as specified in the notice, reinstate the person so notified in the service, or make such other disposition of the matter as in his opinion, the good of the service may require. The decision of the manager in any such case shall be final, and there shall be no appeal therefrom to any officer, body or court whatsoever. A copy of the written state- Removal of officers, how. Public hearing. Decision of manager final.

HeinOnline -- 1923 311 1923

ment of reasons given for any lay-off, suspension or removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the manager, shall be filed as a public record in the office of the clerk.

Manager to have charge of administrative service.

Section 35. Neither the commission nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the municipality. Except for the purpose of inquiry, the commission and its members shall deal with that portion of the administrative service for which the manager is responsible solely through the manager, and neither the commission nor any member thereof shall give orders to any subordinate of the manager either publicly or privately. Any violation of the provisions of this section by a member of the commission shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.

Penalty.

General duties of manager.

Section 36. It shall be the duty of the manager to act as chief conservator of the peace within the municipality; to supervise the administration of the affairs of the municipality; to see that the ordinances of the municipality and the laws of the state are enforced; to make such recommendations to the commission concerning the affairs of the municipality as may seem to him desirable; to keep the commission advised of the financial conditions and future needs of the municipality; to prepare and submit to the commission such reports as may be required by that body; and to perform such other duties as may be prescribed by this act or be required of him by ordinance or resolution of the commission.

Who to be present at sessions of commission.

Section 37. The manager, the directors of all departments, and all other officers of the municipality shall be entitled to be present at all sessions of the commission. The manager shall have the right to take part in the discussion of all matters coming before the commission and the directors and other officers shall be entitled to take part in all discussions of the commission relating to their respective departments and offices.

Departments defined.

Section 38. In consolidated municipalities of the first, second, third and fourth classes there shall be a depart-

HeinOnline -- 1923 312 1923

ment of finance; a police department, a department of public work, a department of health, a fire department, and such other departments and offices as may be established by ordinance. In consolidated municipalities of the fifth, sixth, seventh and eighth classes there shall be a department of finance, a police department, a department of public works and a department of health and such other departments and offices as may be established by ordinance. The commission may change or abolish any department or office established by ordinance and may prescribe, combine, distribute or discontinue the functions and duties thereof. Additional functions and duties may be by ordinance assigned to departments and offices created by this act, but no function or duty assigned by this act to any such department or office shall be discontinued or assigned to any other department or office. If the manager so recommend, and the commission so authorize, the manager may appoint one person to act, as the head of two or more departments or offices; but the department of law must not thus be joined with any other department, nor shall the manager be authorized to act as head of the department of finance, or of any office therein other than of purchasing agent or assessor.

Changes in.

Section 39. The number of assistants and other subordinates to be employed in or by each administrative department or office shall be fixed by the commission, but the commission may authorize the manager to determine the number of such assistants and subordinates in and for a specified department or office subject to the appropriations made thereto.

Employees, how regulated.

Section 40. The director of finance shall maintain in his office a list of all persons in the administrative service of the municipality, showing in connection with each name the position held, the date of appointment, the character of employment, and the rate of compensation. Each appointing officer shall promptly transmit to the director of finance such information regarding his department or office as may be necessary to keep this list accurate in all respects at all times. The treasurer shall not pay, nor shall the director of finance issue, any warrant for the payment of, any salary or compensation to any person whose name does not appear upon such list, nor shall payment be made at a rate other than that specified on such list. Any sum paid contrary

Director of finance to keep list of employees.

Limitation on payment of salaries.

HeinOnline -- 1923 313 1923

to the foregoing provisions of this section may be recovered from any officer paying or authorizing the payment thereof or from the surety on his official bond. If through the failure of any officer to give information to the director of finance as required in this section, or through omission or error in such information, payment is made to any person whose name should not be on such list, or payment is made in excess of the amount which any person whose name is rightfully on the list should receive, then the amount of any such payment or excess payment may be recovered from the officer by reason of whose failure, omission or error the payment or excess payment was made, or from the surety on his official bond.

Recovery of illegal payments.

Compensation of employees, how fixed.

Section 41. The compensation of officers and employees in the administrative service of the municipality shall be fixed by ordinance, but all positions in such service except those of heads of departments and heads of offices not included within regular departments shall, for purposes of compensation, be graded and classified by the manager according to duties and responsibilities. The commission shall by ordinances establish a schedule of compensation for the positions so graded and classified which shall prescribe uniform compensation for like service as determined by the grading and classification of the manager. Such schedule of compensation may establish a minimum and maximum for any grade, and an increase in compensation within the limits provided for any grade may be granted by the manager upon the basis of efficiency and seniority.

Schedule of compensation.

Advisory board.

Section 42. The manager may appoint a board of citizens qualified to act in an advisory capacity to the head of any specified department or office. The members of all such boards shall serve without compensation and it shall be their duty to consult and advise with the officer in charge of the department or office for which they are appointed but not to direct the conduct of such department or office. Public meetings of such boards may be called for the consideration of the affairs of the department or office for which they are appointed.

Who may investigate affairs of municipality.

Section 43. The commission, the manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any department or office of the municipality and to make investi-

HeinOnline -- 1923 314 1923

gations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. It shall be the duty of the manager to designate a police officer to serve subpoenas. The commission shall provide by ordinance the penalty or penalties for contempt in refusing to obey any such subpoena, or to produce such books, papers and other evidence and shall have the power to punish any such contempt in the manner provided by ordinance.

Service of subpoenas.

Section 44. The department of law shall be in charge of a director to be appointed by the Commission without definite term, who shall be a resident and elector of the municipality and who shall possess all of the qualifications required of county Attorneys. He shall have all the powers and, either personally or by such assistants as he may designate, shall perform all the duties that now are or hereafter may be prescribed for county attorneys, city attorneys and public administrators and, in addition thereto, he shall be chief legal adviser of and attorney and counsel for the municipality and of all departments and offices thereof and shall perform such other duties as may be required by the commission. He shall qualify by taking the oath of office prescribed by the constitution and giving a bond in the amount required of a public administrator in a county of the same class. He shall receive from the state as part of his salary the same amount which is paid by the state to county attorneys in counties of the same class, and the remainder of his salary shall be paid by the municipality. For all purposes in connection with criminal prosecutions he shall be known and designated as "County Attorney" of the City and County of .....".

Department of law.

Powers and duties of director.

Official designation.

Section 15. The director of finance shall have charge of the administration of the financial affairs of the municipality including the keeping and supervision of all accounts; the custody and disbursement of municipal funds and moneys; the making of special assessments, the assessment of property for taxation; the issuance of licenses; the collection of license fees; the control over expenditures; the purchase, storage and distribution of supplies needed by the municipality; and such other duties as the commission may by ordinance require. He shall also have all powers and perform all duties im-

Director of finance, powers.

HeinOnline -- 1923 315 1923

posed upon county clerks, recorders and auditors by general law.

Duties as to revenues and expenses.

Section 46. The director of finance shall prepare and submit to the commission each month a summary statement of revenues and expenses for the preceding month, detailed as to appropriations and funds in such manner as show the exact financial condition of the municipality and of each department, and office thereof as of the last day of such month.

Division of audit and account.

Section 47. There shall be in the department of finance a division of audit and accounts of which the directors of finance shall himself be the head. As head of such office he shall be charged with keeping the books of financial account for all departments and offices of the municipality and, whenever practicable, such books and accounts shall be kept in the office of the division of audit and accounts. Report shall be made daily to the division of audit and accounts by each department and office showing the receipt of all moneys and the disposition thereof.

Death of officer, Inspection of accounts.

Section 48. Upon the death, resignation, removal or expiration of the term of any officer of the municipality the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report to the manager and the commission. Either the commission or the manager may at any time provide for an examination or audit of the accounts of any officer or department of the municipal government. In case of the death, resignation or removal of the director of finance, the manager shall cause an audit to be made of his accounts. If, as a result of any such audit, an officer be found indebted to the municipality the director of finance, or other person making such audit, shall immediately give notice thereof to the commission, the manager and the director of law and the latter shall forthwith proceed to collect such indebtedness.

Division of the treasury.

Section 49. There shall be in the department of finance a division of the treasury, the head of which shall be treasurer of the municipality, and who shall have the powers and perform the duties prescribed for city treasurers and county treasurers by general law and who shall be required to qualify by giving a bond in the same amount required of county treasurers of counties of the same class. All moneys received by an officer or em-

HeinOnline -- 1923 316 1923

ployee of the municipality for or in connection with the business of the municipality shall be paid promptly into the treasury. The commission shall by ordinance provide for the prompt and regular payment of such money into the treasury, and shall also, in the manner hereinafter provided, designate the banking institutions with which it shall be deposited.

Division of purchase and supplies.

Section 50. There shall be in the department of finance a division of purchases and supplies at the head of which there shall be a purchasing agent. The purchasing agent shall make all purchases for the municipality in the manner, and with such exceptions, as may be provided by ordinance and shall, under such regulations as may be provided by ordinance, sell all property, real and personal, of the municipality not needed for public use or that may have become unsuitable for use. He shall have charge of such storerooms and warehouses of the municipality as the commission may by ordinance provide.

Purchasing agent.

Supplies, how purchased.

Section 51. Before making any purchase or sale the purchasing agent shall give opportunity for competition, under such rules and regulations as the commission may by ordinance establish. Supplies required by any department or office of the municipality may be furnished upon requisition from the stores under the control of the purchasing agent, and whenever so furnished shall be paid for by the department or office furnished therewith by warrant made payable to the credit of the store's account of the division of purchases and supplies. The purchasing agent shall not furnish any supplies to any department or office unless there be to the credit thereof an available unencumbered appropriation balance sufficient to pay for such supplies.

Limitation.

Division of assessment.

Section 52. There shall be in the department of finance a division of assessment the head of which shall be the assessor. The assessor and his deputies shall have the powers, qualify in the manner, and perform the duties prescribed for county assessors and deputy assessors by general law.

Powers of Assessor.

Section 53. The assessor shall also be in charge of the preparation of all special assessments for public improvements; the giving of notice of such assessments to property owners; and the certification of all unpaid assessments to the director of finance.

HeinOnline -- 1923 317 1923

Fiscal year defined.

Section 54. The fiscal year of the municipality shall begin with the first day of July and shall end with the next succeeding thirtieth day of June, and all of the provisions of the general laws of the state in respect to budgets for cities and counties shall apply to such municipality.

Limitation on tax levy.

Section 55. No ordinance making the annual tax levy shall be passed fixing the rate to be levied upon all property within the municipality to defray current expenses, including salaries otherwise unprovided for, in excess of sixteen mills on each dollar of the assessed valuation.

Proviso as to tax limit.

Section 56. The tax limit provided by section 55 of this act shall apply only to taxes for the purposes therein specified. Taxes required by this act to be levied on account of the debt of the municipality, or any district thereof, and special taxes authorized by this act or by the general laws of the state, shall not be affected by such limits nor shall such taxes be considered in determining the limits of taxation fixed by section 55 of this act.

Levy of special taxes.

Section 57. The municipality shall have the power and authority to levy special taxes for all purposes which counties, cities and towns are authorized to levy by general laws of the state, and all of the provisions of such laws shall be applicable to and shall govern and control the municipality in the levying and collection of such special taxes.

Collection of taxes.

Section 58. All taxes levied by the municipality shall be collected and payable in the manner, at the time and under the penalties prescribed by law for the collection and payment of state and county taxes.

Continuation of special districts.

Section 59. The district comprised within the boundaries of any city, town or district, existing within the county at the time of the adoption of this act by the electors thereof shall, for the purpose of paying the interest and principal of any debt incurred by such city, town or district prior to such adoption, be continued as a special district until such debt shall have been paid, and the commission shall, in the annual tax levy ordinance, levy upon the property within each such district such tax, in addition to all other taxes, as the director of finance shall report to be necessary to provide for paying

HeinOnline -- 1923 318 1923

the interest on each such debt as it falls due and the principal thereof as it matures, and no other property within the municipality shall be taxable or made liable for the payment of any such debt. The commission shall likewise provide in the annual tax levy ordinance for the levy of such tax upon all property within the municipality as the director of finance shall report to be necessary to provide for paying the interest as it falls due and the principal as it matures of any debt of the municipality as a whole. The tax levy for the debt of the municipality as a whole, and the tax levy for the debt of each such district, shall each be a separate levy and shall be distinct from and in addition to all other tax levies, and the proceeds of each such tax levy shall be placed in a separate fund for the payment of the interest and principal of the debt for which the tax was levied, and no part of any such fund shall be used for any other purpose whatever.

Special tax levies.

Disposal of money.

Section 60. No claim against the municipality shall be paid except by means of a warrant on the treasury issued by the director of finance. The director of finance shall issue no warrant for the payment of a claim unless the claim be evidenced by a voucher approved by the head of the department or office for which the indebtedness was incurred, and each such officer and his surety shall be liable to the municipality for all loss or damage sustained by reason of his negligent or corrupt approval of any claim.

Warrants, regulation of issuance.

Section 61. The director of finance shall examine all payrolls, bills and other claims and demands against the municipality and shall issue no warrant for payment unless he finds that the claim is in proper form, correctly computed and duly approved; that it is legally due and payable; and that an appropriation has been made therefor which has not been exhausted. He may investigate any claimant and for that purpose may summon before him any officer, agent or employee of the municipality, any claimant or other person, and examine him upon oath or affirmation relative thereto, and if he finds a claim to be fraudulent, erroneous or otherwise invalid or that the appropriation out of which such claim is payable has been exhausted, he shall not issue a warrant therefor. If the director of finance issue a warrant on the treasury authorizing payment of any claim in contravention of the provisions of this section he and his sureties shall be

Examination of claims.

Liability of director of finance.

HeinOnline -- 1923 319 1923

individually liable to the municipality for the amount of such warrant if paid.

Certificate as to certain contracts.

Section 62. No contract, agreement or other obligation, other than contracts pertaining to work or improvements to be paid for by special assessments, involving the expenditure of any funds shall be entered into, nor shall any order for such expenditures be valid, unless the director of finance shall first certify to the commission that the object or purpose for which such expenditure is to be made and the amount thereof is provided for by an appropriation in the annual budget, or in a supplemental budget, and that the same has not been expended. The certificate of the director of finance shall be filed and made a matter of record in his office, and the appropriation for such purpose shall thereafter be considered as having been set aside and expended to the amount of such contract, agreement or obligation.

Contracts, when void.

Section 63. All contracts, agreements or other obligations entered into, all ordinances and resolutions passed, and orders adopted, contrary to the provisions of sections 62 of this act shall be void, and no person whatever shall have any claim, or demand against the municipality thereunder, nor shall the commission or any officer of the municipality waive or qualify the limitations fixed by such sections, or fasten upon the municipality any liability whatever in excess thereof.

Depositories to be designated.

Section 64. On or before the first day of August of each year the commission shall designate the banks subject to state or national supervision in which the funds of the municipality shall be deposited. In designating such banks the commission shall specify the maximum amount of municipal funds that may be kept at any time in each. Unless a bank designated as a depository shall elect to deposit securities with the treasurer, as provided in the next succeeding section, it shall give good and sufficient bonds, with sureties to be approved by the commission, conditioned for the safe keeping and payment of the municipal funds deposited therewith and the interest thereon. Any such bonds of a depository shall be in the aggregate equal to the amount designated by the commission as the maximum of municipal funds which may at any time be kept by such depository.

Bonds.

Deposit of bonds as security.

Section 65. In lieu of the surety bonds specified in the next preceding section any bank designated as a deposi-

HeinOnline -- 1923 320 1923

tory of municipal funds may deposit with the treasurer bonds of the class and kind in which, by the provisions of this act, the sinking fund of the municipality may be invested. Bonds so deposited shall be in an amount equal to the amount of municipal funds permitted at any time to be deposited with such bank, shall be approved by the commission and shall be accompanied by proper assignment, to the end that the bank so depositing and assigning such bonds will safely keep and pay over to the treasurer, or his order, on demand and free of exchange, all moneys at any time deposited therein with interest thereon at the rate agreed upon, and that in case of default on the part of such bank the commission shall have power and authority to sell such bonds, or so much thereof as may be necessary, to realize the full amount of the funds deposited therein. The bank shall be entitled to interest on the securities so deposited with the treasurer, when paid, and to the return of the securities at the termination of such trust so long as the bank is not in default. With the approval of the commission a bank may at any time substitute other like securities of equal value for those so deposited.

Interest on securities deposited.

Substitution.

Section 66. Whenever for any cause the commission shall deem the bonds or securities of any bank insufficient security for the municipal funds deposited or likely to be deposited therein the commission shall require new bonds to be given or new securities to be deposited with the treasurer. If any bank shall fail promptly to execute and present such new bonds, or deposit such new securities, the treasurer shall at once withdraw all deposits therefrom and no further deposit of municipal funds shall be made therein until such bank shall have been redesignated by the commission as a depository.

New bonds may be required, when.

Section 67. All surety bonds given by a bank in accordance with the provisions of this act shall continue in force so long as funds of the municipality deposited therein shall be unpaid. Nothing herein provided shall impair the rights and remedies of the municipality on such bonds under the laws of the state. Bonds and other securities given by banks in accordance with this act shall be entered in a record to be kept for that purpose by the director of finance and deposited with the treasurer for safe keeping. The record of such bonds and securities kept by the director of finance, or copies there-

Regulation of surety bonds.

Record of securities.

HeinOnline -- 1923 321 1923

of certified by that officer, shall be competent and prima facie evidence of the contents and tenor thereof.

Deposit of funds.

Section 68. All funds received by the treasurer shall be deposited by him in the designated banks in the name of the municipality subject to the order of the treasurer, and shall be distributed among the designated banks as nearly as may be in proportion to the maximum amounts which they have been authorized to receive by the commission.

Interest on deposits.

Section 69. Banks designated as depositories shall pay interest on daily balances of municipal funds at a rate approved by the commission, which shall in no case be less than two and one-half per centum. The interest due on such deposits shall be paid to the treasurer by check on the last day of each quarter of the fiscal year. If the treasurer shall at any time receive, or have in any bank, funds which will probably remain on deposit three months or longer he may, with the approval of the commission either take therefor certificates of deposit from a designated depository, payable to his order on demand, and bearing a higher rate of interest, or invest such funds in any bonds maturing within six months in which the sinking fund of the municipality may be invested. The treasurer shall make a monthly statement to the director of finance of the municipal funds in each bank, and the interest received thereon, as of the last day of each month.

Disbursement of money by bank.

Section 70. No bank receiving funds of the municipality on deposit shall have authority to pay out any such money except upon checks drawn upon that bank signed by the treasurer.

Liability of treasurer and sureties.

Section 71. When the funds of the municipality are deposited and kept in designated banks according to the provisions of this act the treasurer and the sureties on his official bond shall be exempt from all liability for the loss of any funds so deposited if such loss is caused by the failure, bankruptcy, or any other act or default of such banks, but the want of care or due diligence on the part of the treasurer or commission in protecting the municipality against loss, shall not exempt the treasurer, the members of the commission or sureties on their respective bonds from liability. Nothing herein provided shall deprive the municipality of any right or remedy against any defaulting bank or against its officers or stockholders.

HeinOnline -- 1923 322 1923

Limitation on indebtedness.

Section 72. The municipality shall not become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum (5%) of the value of the taxable property therein as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness, and all warrants, bonds or obligations in excess of such amount given by or on behalf of the municipality shall be void.

Authority to borrow money.

Section 73. The consolidated municipality may borrow money or issue bonds for any municipal purpose to the extent and in the manner provided by the constitution and laws of Montana for the borrowing of money or issuing of bonds by counties and cities and towns.

Sinking fund board.

Section 74. The sinking funds of the municipality shall be in charge of a sinking fund board consisting of the president, the director of finance and the director of law. The president shall be the chairman and the director of finance the secretary of the board. By and with consent of the commission the sinking fund board shall invest the sinking fund in bonds or certificates of indebtedness of the United States; state bonds or certificates of indebtedness of Montana or any other state of the United States; bonds of the municipality; registered warrants on the treasury of such municipality; bonds of any city in the State of Montana; and in such county or school bonds of Montana as may be approved by the commission. In case the sinking fund be invested in bonds of the municipality such bonds shall not be cancelled before maturity but shall be held by the sinking fund board and the interest thereon paid over and applied to the increase of the sinking fund. Whenever the principal of any of the bonds of the municipality shall become due the sinking fund board shall, with the consent of the commission, dispose of such of the bonds belonging to the sinking fund as, with the money on hand belonging to the sinking fund, shall be necessary to pay the bonds so becoming due.

Investment of sinking fund.

Contracts, how let.

Section 75. All contracts entered into by the municipality for supplies or materials, for any public work, or for the construction, reconstruction, repair, maintenance or operation of any public works or improvements for which must be paid a sum exceeding two hundred and fifty dollars ($250.00) shall be awarded to the lowest

HeinOnline -- 1923 323 1923

Advertisement.

responsible bidder, after public advertisement and competition as may be prescribed by ordinance, but the manager shall have the right to reject all bids and advertise again. All advertisements as to contracts shall contain a reservation of the foregoing right. All contracts entered into by the municipality shall be signed by the manager after approval thereof by the commission.

Execution.

Alteration of contracts.

Section 76. When it becomes necessary in the opinion of the manager to make alterations or modifications in any contract entered into by the municipality such alterations shall be made only when authorized by the commission upon the written recommendation of the manager. No such alteration shall be valid unless the new price to be paid for any supplies, material or work under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the manager prior to such authorization by the commission.

Police Department.

Section 77. The police department shall be in charge of a director who shall be chief of the Police force of the municipality. Officers and patrolmen of the police department, subordinate to the director, shall have the powers and perform the duties conferred on and required of police officers and patrolmen in cities and towns by the laws of this state and such powers and duties as may be conferred and required by the ordinances of the municipality. The director shall have the powers and perform the duties conferred on and required of sheriffs and police officers and patrolmen shall have the powers and perform the duties conferred on and required of deputy sheriffs by the general laws of the state. For the purpose of serving and making return on all criminal and civil process, executing judgments, decrees and orders of court and making sales thereunder and returns thereof, the Director shall be known and designated as "Sheriff of the City and County of ....." and each police officer and patrolmen shall be known and designated as deputy sheriff.

Powers of officers.

Director.

Official designation.

Director of public works, powers and duties.

Section 78. The department of public works shall be in charge of a director who shall manage and have charge of the construction, repair, improvement and maintenance of all public buildings, of roads, streets, alleys, sidewalks, bridges, viaducts and other public ways; of sewers, drains, ditches, culverts, streams and water courses; and of boulevards, parks, playgrounds, cemeteries and

HeinOnline -- 1923 324 1923

other public places and grounds dedicated to public use. He shall manage and control all public cemeteries, crematories, market places or houses, garbage and sewage disposal, plants and farms, and all public utilities belonging to the municipality, or any subdivision thereof, and shall have charge of the enforcement of the obligations to the municipality of all privately owned or operated public utilities enforceable by the municipality. He shall have charge of the cleaning, sprinkling and lighting of the streets and the collection and disposal of garbage and waste. He shall also be responsible for the making and preservation of all surveys, maps, plans, drawings and estimates for such public work, and for the preservation of contracts, papers, plans, tools and appliances belonging to the municipality and pertaining to the functions of the department.

Qualifications of director of public works.

Section 79. The director of public works shall have the qualifications prescribed by law for county surveyors and, in addition to the duties required by this act and by the ordinances of the municipality, he shall have the powers and shall, either in person or by a deputy having the qualifications prescribed by law for county surveyors, perform the duties required of county surveyors by the laws of the state.

Director of department of health.

Section 80. The director of the department of health shall be a physician legally authorized to practice medicine and surgery in the State of Montana. Except as otherwise provided in this act the director of the department of health shall have the powers and perform the duties conferred on and required of coroners and county health officers and local health officers by the general laws of the state. He shall also have such other powers and perform such other duties as may be prescribed by ordinance.

Powers.

Commission to be county board of health.

Section 81. The commission shall be the county board of health in and for the municipality, but in performing the duties and exercising the powers prescribed by law for such boards the commission shall act by ordinance, resolution or vote and according to the procedure prescribed by this act to be followed when acting as commission of the municipality, and it shall not be necessary to the validity of any such action for the commission to declare, or for the records thereof to indicate that it is acting in other than its usual capacity. Regulations

HeinOnline -- 1923 325 1923

affecting the public health, additional to those established by general law, and for the violation of which penalties are imposed, may be prescribed by ordinance and enforced as provided therein.

Fire department. Chief.

Section 82. The fire department of the municipality shall be in charge of a director who shall be chief thereof and who shall manage and control the department in the manner prescribed by the ordinances of the municipality.

Continuation of firemen's disability fund.

Section 83. Any disability fund, or funds, of the fire department or departments, established as required by law in any city or town of the county prior to the election and qualification of a commission under this act, shall be continued as one such fund for the fire department of the municipality. The board of trustees of such disability fund shall consist of the president, the director of finance, the director of law, the director of the fire department, and one member of the fire department selected by a majority of the members of such department between the first and tenth day of July of each year in which the municipality shall elect members of the commission. Except as provided in this section, the disability fund of the fire department shall be continued and administered in the manner prescribed by law for such funds established in cities and towns.

Superintendent of schools.

Section 84. The commission shall, by majority vote of all its members, appoint a municipal superintendent of schools to serve without definite term, but subject to removal at the pleasure of the commission. The superintendent of schools for any district within the municipality may, with the consent of the trustees of such district, be appointed to serve as municipal superintendent. The compensation of the municipal superintendent shall be fixed by the commission, and he shall have the powers and perform the duties prescribed for county superintendents of schools by the laws of the state.

Police court.

Section 85. A police court is hereby established in and for each municipality with the jurisdiction, powers and duties within the municipality provided by general law for police courts in cities and towns, and for justices of the peace. The commission shall, by majority vote of all its members, appoint a police judge or judges to serve during the pleasure of the commission. No person

Police judge.

shall be appointed police judge unless at least twenty-five years of age and admitted to practice law in the State

HeinOnline -- 1923 326 1923

of Montana. The compensation of the police judge or judges shall be fixed by the commission.

Public works, how constructed.

Section 86. Any local public work may be done or any local public works or improvements may be constructed, reconstructed, repaired, maintained or operated either by contract or directly by the municipality as may be determined by the commission. Before authorizing that any local public works or improvements be directly constructed, reconstructed, repaired, maintained or operated, detailed plans and estimates for each such work or improvement shall be submitted to the commission by the manager, and there shall be separate accounting for each work or improvement so executed.

Creation of special improvement districts.

Section 87. The municipality shall have the same power and authority to create special improvement districts and for like purposes, and to create special lighting districts and sprinkling districts as provided by the laws of the State for cities, and towns.

Public works in charge of director.

Section 88. The director of public works shall be the engineer in charge of all such work, works or improvements. The provisions of the general law of the state regarding special improvement districts, special lighting districts and sprinkling districts in cities and towns shall apply to and control the establishment under this act of special improvement districts, special lighting districts and sprinkling districts in and for the municipality and the procedure according to which any local public work or the construction, reconstruction, repair, maintenance or operation of any local public work or improvement is to be provided for when the cost thereof is to be paid in whole or in part by assessments upon the property within any such district, and such general law shall also apply to the manner of levying and collecting such assessments.

Special improvement districts.

What officers to act on first elections.

Section 89. For any election held on the question of the adoption of this act, and for the first election of members of the commission thereunder, if adopted the county clerk and board of county commissioners shall exercise the powers and perform the duties respecting elections prescribed for county clerks and boards of county commissioners by the general laws of the state. After the adoption of this act by the electors of the county, and the election and qualification of a commission thereunder, the powers and duties of county clerks and boards

HeinOnline -- 1923 327 1923

of county commissioners under the general election laws of the state shall devolve upon the clerk and commission of the municipality and, except as otherwise provided in this act, the provisions of such laws shall continue to apply to all elections held within the municipality.

Municipal primary elections.

Section 90. A municipal primary election for the choice of members of the commission shall be held on the last Tuesday in April in each year in which members of the commission are to be elected. All candidates for the commission receiving a majority of the votes cast at the municipal primary election shall be deemed and declared elected to the commission. If candidates equal to the number of members of the commission to be elected do not receive a majority of the votes cast at such primary election, a municipal primary election shall be held on the first Tuesday in June next following the election. At all municipal elections the polls shall be open from 8 A. M. to 6 P. M. The time, manner and method of establishing election precincts and polling places and appointment of judges of election and the method of conducting election, registering voters therefor, counting the votes cast thereat, and canvassing the returns thereof, shall be as prescribed by the general election laws of the state.

Polls, when open.

Voting.

Nominating petitions.

Section 91. Any elector of the municipality eligible to membership in the commission may be placed in nomination therefor by petition filed with the clerk and signed by at least two per centum (2%) of the qualified electors whose names appear upon the offical register of voters of the municipality. The signatures to a nominating petition need not all be attended to one paper, but to each separate leaf of the petition there shall be attached an affidavit of the circulator thereof stating that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. Each signer of a petition shall sign his name in ink or indelible pencil and, after his name, shall designate his residence by street and number or other description sufficient to identify the place, and give the date when his signature was made. No elector shall sign petitions for more candidates for the commission than the number of places to be filled therein at the forthcoming primary election.

Signatures.

HeinOnline -- 1923 328 1923

Form of petition.

Section 92. The form of nominating petition papers shall be substantially as follows:

We, the undersigned electors of the City and County of ....., hereby nominate ..... whose residence is ..... for the office of commissioner, to be voted for at the primary election to be held on the last Tuesday of April, 19....., and we individually certify that we are qualified to vote for candidates for the above office and that we have not signed nominating petitions for more than ..... candidates for the commission.

Residence (Street and Number) or Description to Identify Place.

Name. Date.

....

....

....

State of Montana, City and County of ..... ss.

....., being duly sworn, deposes and says that he is the circulator of this petition paper; that the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be.

Signed .....

Subscribed and sworn to before me this ..... day of ....., 19.....

Notary Public for the State of Montana, residing at ....., Montana. My commission expires ....., 19.....

Assembly and filing of petitions.

Section 93. All separate leaves comprising a nominating petition shall be assembled and filed with the clerk as one instrument at least thirty days prior to the next succeeding last Tuesday in April. Within five days after the filing of the nomination petition the clerk shall notify the person named therein as a candidate whether such petition is signed by the required number of qualified electors. Any eligible person placed in nomination as hereinbefore provided shall have his name printed on the ballots and placed upon any voting machine used at the primary election, if within five days after such nomination, he shall have filed with the clerk a written acceptance of the nomination.

Notification of nominees.

Party marks forbidden.

Secton 94. No party mark or designation shall appear on the ballots, or in connection with the names of candidates on any voting machine, used in the election of

HeinOnline -- 1923 329 1923

members of the commission. Each elector may vote for as many candidates for the commission as there are places to be filled therein; but any ballot marked for more candidates than the number of places to be filled shall not be counted for any of the candidates for which marked. The ballots shall be in form substantially as follows:

Form of ballot.

MUNICIPAL ELECTION
City and County of .....
(Month and day of month), 19.....
FOR COMMISSIONERS.
Do not vote for more than .....

.....	.....
.....	.....
.....	.....

Order of names on ballot, how determined.

Section 95. At 2 o'clock p. m. on the tenth day before any election at which members of the commission are to be nominated and elected, the clerk shall publicly determine by lot the order in which the names of candidates for election to the commission shall be printed on the ballots, or appear on any voting machine, to be used at such election.

Blank spaces.

Section 96. As many blank spaces shall be left on the ballots below the printed names of candidates for the commission as there are places to be filled therein. In any such space an elector may write the name of any eligible person, and a vote cast for such person shall be counted as though for a candidate whose name is printed on the ballots.

Notice of primary election.

Section 97. On the tenth day prior to the municipal primary election the clerk shall cause notice thereof to be published in such daily newspaper or newspapers, printed and published within and of general circulation in the municipality as the commission may have designated, and if there be no daily newspaper then in such weekly newspaper or newspapers as may be so designated. In case the commission fail to designate such newspaper or newspapers, the clerk shall cause the notice to be published in such newspaper or newspapers printed and published within and of general circulation in the municipality as he may select. Such published notice shall contain a list of the candidates for the commission nominated as hereinbefore provided, and state the time of holding the election. On the tenth day prior to a municipal election held on the first Tuesday in June the clerk,

Publication.

HeinOnline -- 1923 330 1923

under like conditions, shall cause a similar notice to be published concerning that election. The commission may also provide for giving notice of such elections by other means.

What names to go on ballot and voting machine.

Section 98. At any municipal election held for the choice of members of the commission of the first Tuesday in June following a municipal primary election there shall be printed on the ballots and placed on the voting machines the names of the candidates receiving the highest number of votes at the municipal primary election, except the names of those elected to the commission thereat, and the number of names so printed on the ballots and placed on the voting machines shall be equal to double the number of places remaining to be filled in the commission. If, by reason of their having received the same number of votes, it cannot be determined which of two or more candidates shall have his name, or their names, printed on the ballots and placed on the voting machines, then, notwithstanding the foregoing provisions of this section the names of all such candidates receiving the same number of votes shall be printed on the ballots and placed on the voting machines. The candidates for the commission at an election held on the first Tuesday in June, equal in number to the places remaining to be filled in the commission, who receive the highest number or more candidates shall be decided by lot in the presence or more candidates shall be decided by lot in the presence of such candidates and under the direction of the clerk.

Removal of commissioner.

Section 99. Any member of the commission may be removed from office by the electors of the municipality. The procedure for effecting such a removal shall be as follows:

Recall petitions.

Any elector of the municipality may make and file an affidavit with the clerk requesting that petition be issued demanding an election for the recall of any member of the commission. Any such affidavit shall state the name of the person whose removal from the commission is sought and the grounds alleged for such removal. Upon the filing of such an affidavit the clerk shall deliver to the elector making the affidavit copies of petition papers for demanding such an election, printed copies of which the clerk shall keep on file for distribution as herein provided. In issuing any such petition paper the clerk shall enter in a record to be kept in his office the name of the elector to whom issued, the date

HeinOnline -- 1923 331 1923

of issuance, the number of papers issued, and shall certify on each paper the name of the elector and the date of issuance. No petition paper shall be accepted as part of a petition unless it bear such certification of the clerk and unless filed as hereinafter provided.

Return and filing of recall petitions.

Section 100. A petition for a recall election to be effective must be returned and filed with the clerk within thirty days after the filing of the affdavit as provided in last preceding section, and to be sufficient must be signed by at least twenty per centum (20%) of the qualified electors of the municipality whose names appear on the official register of voters of the municipality on the date when such petition is returned and filed with the clerk. If any such petition is insufficient as originally filed it may be amended as provided in ths act.

Submission of recall petitions to commission.

Section 101. If a petition for a recall election, or an amended petition, shall be certified by the clerk to be sufficient he shall at once submit it to the commission with his certificate to that effect and shall notify the member of the commission whose removal is sought of such action. Unless the member whose removal is sought resign within five days after such notice, the commission shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than ninety nor more than one hundred and twenty days after the petition has been presented to the commission and may be held at the same time as any other election held within such period; but, if no other election be held within such period, the commission shall call a special recall election to be held within the time aforesaid.

Election.

What may be submitted.

Section 102. The question of recalling any number of members of the commission may be submitted at the same election, but as to each member whose removal is sought a separate petition shall be filed and provision shall be made for an entirely separate printed ballot. Candidates to succeed any person whose removal is sought shall be placed in nomination by petition signed, filed and verified as provided for nominating petitions for a municipal primary election; except that each petition paper shall specify that the candidate named therein is a candidate to succeed a particular person whose removal is sought.

Nomination of candidates.

Voting machines.

Section 103. Voting machines shall not be used in recall elections, and the printed ballots shall be in form substantially as follows:

HeinOnline -- 1923 332 1923

Form of ballot.

RECALL ELECTION
City and County of .....
(Month and day of month) 19.....

SHALL (name of person) BE REMOVED FROM THE COMMISSION BY RECALL?

FOR THE RECALL OF
(Name of Person.)

AGAINST THE RECALL OF
(Name of Person)

CANDIDATE
To succeed (name of person) if recalled. Vote for but one.

....
....
....

Effect of election.
Removal of officer.

Section 104. If a majority of the votes cast on the question of recalling a member of the commission as hereinbefore provided be against his recall he shall continue in office for the remainder of his unexpired term, but subject to recall as before. If a majority of such votes be for the recall of such member he shall, regardless of any defect in the recall petition, be deemed removed from office. When a member is removed from the commission by recall the candidate to succeed such member who receives the highest number of votes shall succeed the member so removed for the unexpired term.

Resignation pending election.

Section 105. If a person in regard to whom a recall petition is submitted to the commission shall resign from office after notice thereof no election shall be held and some eligible person shall be chosen by a majority vote of the remaining members to fill the place for the unexpired term; but the member so resigning shall not be chosen by the commission to succeed himself.

Limitation.

Section 106. No recall petition shall be filed in respect to any member of the commission within three months after he takes office nor in case of a member subjected

HeinOnline -- 1923 333 1923

to a recall election and not removed thereby, until at least six months after that election.

Restrictions as to receipt of fees by officers.

Section 107. No person elected or appointed to any office or position under the municipal government established by this act shall be entitled to or receive for his own use any fees, emoluments, commissions or perquisites other than the salary or compensation fixed by this act or by the commission, and all such fees, emoluments, commissions and perquisites ensuing out of the performance of official duty shall belong to the municipality and be paid into the treasury thereof at the times and in the manner provided by the general laws of the state.

Political solicitation prohibited.

Section 108. No person holding an appointive office or position in the municipal government shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription or contribution for any political party or purpose whatever. No person shall orally or by letter solicit, or be in any manner concerned in soliciting, any assessment, subscription or contribution for any political party or purpose from any person holding an appointive office or position in the municipal government. No person shall use or promise to use his influence or official authority to secure any appointment, or prospective appointment to any position in the service of the municipality as a reward or return for personal or partisan political service. No person shall take part in preparing any political assessment, subscription or contribution with the intent that it should be sent or presented to or collected from any person in the service of the municipality, nor shall he knowingly send or present directly or indirectly, in person or otherwise, any political assessment, subscription or contribution to, or request its payment by any person in such service.

Other political acts prohibited.

Section 109. No person in the service of the municipality shall discharge, suspend, lay off, reduce in grade, or in any manner change the official rank or compensation of any person in such service or threaten to do so, for withholding or neglecting to make any contribution of money or service or any valuable thing for any political service. No person holding an appointive office or place in the municipal government shall act as an officer in a political organization, or serve as a member of a committee of any such organization, or circulate or seek

HeinOnline -- 1923 334 1923

signatures for any petition provided for by primary or election laws. Penalty.

Section 110. Any person who, by himself or in co-operation with one or more persons, wilfully or corruptly violates any of the provisions of sections 108 and 109 of this act shall be guilty of misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for a term not exceeding three months, or by both such fine and imprisonment, and if he be an officer or employee of the municipality he shall immediately forfeit his office or employment.

Commissioners not to hold other offices.

Section 111. No person elected to the commission shall, during the term for which elected, be appointed to any office or position in the service in the municipality. If a member of the commission shall become a candidate for any public office, other than that of commissioner, he shall immediately forfeit his place on the commission; and any appointive officer or employee of the municipality who shall become a candidate for nomination or election to any public office shall immediately forfeit the office or employment held under the municipality.

Bonds of commissioners and other officers.

Section 112. The members of the commission, the manager, the director of finance, the purchasing agent, the director of law, the director of police, and such other officers and employees of the municipality as the commission requires so to do, shall, immediately upon taking office, give bonds with such surety as may be approved by the commission; but no officer or employee shall become surety upon the official bond of another officer or employee. Members of the commission shall give bonds in the sum of five thousand dollars and other officers and employees shall give bonds in such amounts as the commission may require. The premium on all official bonds shall be paid by the municipality. All such bonds, except those of the manager and the director of finance, shall be filed with the director of finance. The official bonds of the manager and the director of finance shall be filed with and kept by the director of the department of law.

Bonds, where filed.

Oath of office.

Section 113. Every officer of the municipality shall, before entering upon the duties of his office, take and subscribe to the oath or affirmation required of officers by the Constitution of the State of Montana, which oath

HeinOnline -- 1923 335 1923

or affirmation shall be filed and kept in the office of the clerk.

Financial interest of officers prohibited.

Section 114. No officer or employee of the municipality shall have a financial interest direct or indirect, in any contract therewith, or be financially interested, directly or indrectly, in the sale to the municipality of any land, materials, supplies, or services except on behalf of the municipality as an officer or employee. Any wilful violation of this section shall constitute malfeasance in office, and any officer or employee found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, actual or implied, of the person or corporation contracting with the municipality shall render the contract involved voidable by the manager or the commission.

Penalty.

Existing contracts continued.

Section 115. All contracts entered into by the County or by any city or town therein, or on behalf of any improvement district by such county or by any such city or town, prior to the election and qualification of a commission under this act, shall continue in full force and effect subsequently thereto. Public improvements, for which initial steps may have been taken under laws effective in the county prior to the election and qualification of a commission under this act, may thereafter be carried to completion in accordance with the provisions of such laws.

Order continuing existing contracts.

Section 116. The commission first elected may, at its first meeting, make an order that all existing ordinances and resolutions of some one city or town within the consolidated municipality, and which are of general application in such city or town, shall be continued in force and be extended throughout the consolidated municipality, and a copy of such order must be published at least once in each newspaper printed and published within the consolidated municipality within ten days after the making of such order. All other ordinances and resolutions of such city or town, and all ordinances of all other cities and towns within the consolidated municipality, save and except ordinances and resolutions relating to public improvements to be paid for in whole or in part by special assessments, shall, upon the making of such order, be deemed repealed.

Publication of order.

Existing officers to continue in office how long.

Section 117. The members of the board of county commisisoners of the county and members of the council of

HeinOnline -- 1923 336 1923

every city and town therein, holding office on the date when any election is held at which the question of the consolidation and merging of the county and city and town governments is approved and adopted by the qualified electors of the county, shall continue in office and in the performance of their duties until the first commission shall have been elected have qualified, whereupon such board of county commissioners and city and town councils shall be deemed abolished. All other persons holding offices or positions, whether elective or appointive, under the government of such county, or under the government of any city or town therein, at the date of such election, shall continue in the performance of the duties of their respective offices and positions until provision shall be made by the commission for the performance or discontinuance of such duties, or the discontinuance of such offices or positions.

Official declaration by commissioners.

Section 118. At the first meeting of the commission whose members are first elected under the provisions of this act, such commission shall adopt a resolution reciting the filing of the petition provided for in section 2 of this act, the ordering and hold of a special election as requested in such petition, the result of such election, and the holding of the special election for and the election of the members of the first commission, and the name and designation of the consolidated municipality, which resolution must be in duplicate, and signed by all of the members of the commission and also entered at length on the journal of the commission. One copy of such commission must be filed in the office of the clerk of the commission and the other copy thereof must be transmitted to and filed in the office of the secretary of state. Immediately upon the adoption of such resolution by the commission the separate corporate existence of the county and of each and every city and town therein shall be deemed to be consolidated and merged into one municipal corporation under the name selected, designated and adopted as provided in this act, and such consolidated municipality shall thereupon be deemed to have succeeded to, and to possess and own all of the property and assets of every kind and description and shall, save as herein otherwise provided, become responsible for all of the obligations and liabilities of the county, cities and towns so consolidated and merged. As a political subdivision of the state, such consolidated municipality shall have the status of a county, and for

Merger, when effective.

Legal status of municipality.

HeinOnline -- 1923 337 1923

the purpose of representation in the legislative assembly, as provided by the constitution and laws of this state, and for all other purposes, it shall replace and be the successor of the county and shall be attached to the same judicial district.

Powers as to transfer of govt.

Section 119. The commission shall have power to make all necessary regulations, not inconsistent with this act, for the transition from the several governments of and within the county to the government provided by this act, including the transfer to the treasury of the consolidated City and County of all funds and moneys of such several governments.

Effect of partial invalidity of act.

Section 120. If any clause, sentence, paragraph or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 121. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1923.

CHAPTER 122.

An Act Amending Section 1015 of the Revised Codes of Montana of 1921, Relating to the Powers and Duties of School Trustees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1015 of the Revised Codes of Montana of 1921, be and is hereby amended and reenacted to read as follows:

General powers of school boards.

"Section 1015. Every school board unless otherwise specially provided by law shall have power and it shall be its duty:

1. To prescribe and enforce rules not inconsistent with law, or those prescribed by the superintendent of public instruction for their own government of schools under their supervision.

2. To employ and discharge teachers, mechanics, or laborers, and to fix and order paid their wages; provided, that no teacher shall be employed except under resolution agreed to by the majority of the board of trustees

HeinOnline -- 1923 338 1923

at a special or regular meeting; not unless such teacher be the holder of a legal teacher's certificate in full force and effect. All contracts of employment of teachers, authorized by proper resolution of a board of trustees, shall be in writing and executed in duplicate by the chairman and clerk of the board, for the district and by the teacher.

3. To determine the rate of tuition of non-resident pupils.

4. To fix the compensation of the clerk.

5. To enforce the rules and regulations of the superintendent of public instruction for the government of schools, pupils, and teachers and to enforce the course of study.

6. To provide for school furniture and for every thing needed in the school house or for the use of the school board.

7. To rent, repair and insure school houses.

8. To purchase, acquire, sell and dispose of plots or parcels of land to be used as sites for school houses, school dormitories and other school buildings, and for other purposes in connection with the schools in the district; to build, purchase or otherwise acquire school houses, school dormitories and other building necessary in the operation of school of the district, and to sell and dispose of the same; provided, that they shall not build or remove school houses or dormitories, nor purchase, sell or locate school sites unless directed so to do by a majority of the electors of the district voting at an election held in the district for that purpose, and such election shall be conducted and votes canvassed in the same manner as at the annual election of school officers, and notice thereof shall be given by the clerk by posting three notices in three public places in the district at least ten days prior to such election, which notices shall specify the time, place and purpose of such election.

Election on purchase or sale of school house sites.

9. To hold in trust for their district all real or personal property for the benefit of the school thereof.

10. To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school, children under six years of age where the interest of the school requires such exclusion.

11. To provide clothing and medical aid for indigent children when it shall be made to appear that such aid is needed; and to employ a physician to make an examination into the sanitary conditions of the school and

HeinOnline -- 1923 339 1923

the general health conditions of each pupil, and to make a full detailed report to the board of trustees. The clerk of the district shall furnish immediately to each parent or guardian a copy of such portion of the above mentioned report as pertains to his child or ward.

12. To require pupils to be furnished with suitable books as a condition of membership in school.

13. To exclude from school and school libraries all books, tracts, papers and other publications of immoral and pernicious nature.

14. To require teachers to conform to the law.

15. To make an annual report, as required by law, to the county superintendent on or before the first day of August each year, in the manner and form and on the blanks prescribed and furnished by the superintendent of public instruction.

16. To make a report directly to the superintendent of public instruction whenever instructed by him to do so.

17. To determine what branches, if any, in addition to those required by law, shall be taught in any school in the district, subject to the approval of the county superintendent, in districts of the third class.

18. To visit every school in their district at least once in each term and to examine carefully into its management, conditions and needs. This clause applies to each of the trustees.

19. To provide separate privies or outhouses for the use of the sexes at all school houses, where the same do not exist, and to see that the same are kept in good repair, and in clean condition. Such privies or outhouses must be located and built in such manner as to secure privacy. In all cases where there is no fence dividing the playgrounds of the sexes, the privies or outhouses herein named shall be separate and distinct buildings, and situated at least twenty feet apart, and to require that all teachers and janitors use due care in keeping all toilets in good repair and in clean condition and free from obscenity; provided that any trustee or trustees, teacher, janitor, or janitors, failing to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding ninety days, or both such fine and imprisonment in the discretion of the court.

HeinOnline -- 1923 340 1923

20. To allow pupils residing in other districts to attend school in the district of which they have charge, if in their judgment there is sufficient room.

21. To procure by purchase or donation, and to cause to be displayed daily in suitable weather, an American flag, with accompanying necessary fixtures, for each and every school house in their respective districts. Said flags shall be of dimensions not less than four by six feet, and shall be made from durable material. The school trustees are hereby authorized and empowered to use such portion of the school funds as remain in their hands, and which is not otherwise appropriated, for the purchase and erections of fixtures.

22. To close a school at their discretion during the annual session of the state teachers' association, and to allow teachers to attend the same without loss of salary.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall take effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 123.

An Act Legalizing the Acts of Boards of School Trustees in Purchasing or Building Dormitories, Furnishing and Equipping the Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Prior official acts legalized.

Section 1. The official acts of every Board of School Trustees acting as such within the State of Montana, in purchasing or building dormitories and furnishing and equipping the same prior to the passage and approval of this act, which are for the benefit of their respective school districts and are used by the pupils and teachers thereof and are necessary for such purpose, are hereby legalized and confirmed, and made effectual and valid.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall take effect from and after its passage and approval.

Approved March 8, 1923.

HeinOnline -- 1923 341 1923

CHAPTER 124.

An Act to Amend Section 443 of the Revised Codes of Montana Relative to the Allowance of Traveling or Other Expenses of State, County, City, School District, or Employees of the State, or Any County, or City or Any School District.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 443 of the Revised Codes of Montana, 1921, be amended so as to read as follows:

Regulation of allowance travelling expenses public officers.

"Section 443. Hereafter no state, county, city or school district officer or employee of the State, or of any county or city, or of any school district, shall receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance upon any convention, meeting or other gathering of public officers, save and except for attendance upon such conventions, meetings or other gatherings as said officer may by virtue of his office be required by law to attend, provided, that nothing herein shall prohibit the state board of examiners from authorizing the payment of the necessary traveling expenses of any state officer or employee, whenever in the judgment of said board public interest requires, and provided further that the board of trustees of any county high school or of any school district may by resolution adopted by a majority of entire board authorize any employee of such board to attend meetings called for the express purpose of considering educational matters. Provided, further, one member of board of county commissioners may be allowed actual transportation expenses and per diem for attendance upon any general meeting of county commissioners or assessors held within the State.

Proviso.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act to be in force and effect from and after its passage and approval.

Approved March 8, 1923.

HeinOnline -- 1923 342 1923

CHAPTER 125.

An Act to Authorize the Discontinuance of County High Schools, Specifying a Procedure Therefor and Prescribing the Method of Disposing of the Property of Such High Schools and of Caring for Their Obligations in the Event of Such Abolishment.

Be it enacted by the Legislative Assembly of the State of Montana:

Procedure to discontinue county high school.

Section 1. Any county in this State in which a county high school has been or may hereafter be established, may discontinue and abolish said county high school and make disposal of the property belonging to the same in the manner hereinafter provided. Provided, however, the provisions of this Act shall not apply where thirty per cent or more of the students enrolled in any county high school during the last preceding school year, whose parents reside outside of the school district in which such high school is located.

Petition.

Section 2. Whenever, between the 1st of July and the 1st day of September of any general election year, one hundred and fifty tax-paying free-holders and qualified electors in any county shall petition the board of county commissioners requesting that the county high school be abolished in their county, the county clerk shall give notice by publication in the official paper of the county on or before September 15, following, that such petition has been filed. It shall be the duty of the board of county commissioners of said county to submit to the qualified electors of said county at the next general election the question of the abolishment of the county high school of said county. Said election shall be advertised, held and conducted and the votes canvassed and returns made in the same manner as is provided by law for the submission of questions to the people of a county. The qualified electors shall vote by ballot for or against the abolishment of the county high school. Provided, the term qualified electors as used in this Act shall include only such qualified electors under the general school laws of the state as are also freeholders and tax-payers of the county as shown by the last preceding assessment roll. The ballots shall substantially be in the following form:

Election, how held.

Voting

Qualification of voters.

Ballot.

For the abolishment of the County High School.

Against the abolishment of the County High School.

HeinOnline -- 1923 343 1923

An elector desiring to vote for the abolishment of the county high school shall do so by placing an "X" before the clause, "For the abolishment of the County High School", which shall be a vote in favor of abolishing the county high school. An elector desiring to vote against the abolishment of the County High School shall do so by placing an "X" before the clause, "Against the abolishment of the County High School." If a majority of all the votes cast at such election shall be in favor of the abolishment of said county high school, the board of county commissioners shall make and enter upon their minutes a finding in accordance therewith and after July 1st of the following year, said county high school shall be discontinued and abolished. Provided, however, if a majority of all the votes cast at such election shall be against the abolishment of the county high school, another election for such purpose shall not be called for four years.

Finding by county commissioners.

Unexpended money, how disposed of.

Section 2. Upon such discontinuance becoming effective, all unexpended moneys if any of said county high school shall be applied in the following manner:

1st. to the payment of outstanding warrants of said county high school.

2nd to the payment of the interest or principal of outstanding bonds of said county high school.

3rd. to be divided among the several school districts of the county maintaining accredited high school classes, according to the average daily attendance at such high school classes for the school year next preceding as determined by the county superintendent of schools.

Bonds and warrants, how paid.

Section 4. All outstanding bonds, warrants and other legal obligations of said county high school shall be paid in the same manner as though said county high school had not been discontinued and it shall be the duty of the county commissioners annually to ascertain the amount of said bonds, warrants or other outstanding indebtedness and to make such annual tax levies, not in excess of the total amount authorized by law, as may be necessary to retire and pay such bonds, warrants or other outstanding obligations of said county high school.

Delinquent taxes, how used.

Section 5. All delinquent taxes levied for the support of any county high school which has thereafter been discontinued shall, whenever the same are collected, be used

HeinOnline -- 1923 344 1923

in the manner provided by Section 1281 of the Revised Codes of Montana of 1921 for the maintenance of high school classes in counties not having county high schools.

Disposal of property, procedure.

Section 6. Upon the discontinuance of any county high school all the property both real and personal of said county high school shall be disposed of in the manner following: Any district judge of the judicial district in which such county is situated, shall on application of the board of county commissioners, appoint three competent persons to appraise the value of the property both real and personal, belonging to said county high school or used in connection therewith. In making such appraisement, deterioration, second hand value and the special adaptability or lack of adaptability of such property for any other use shall be taken into consideration by the appraisers. Said appraisers shall receive the sum of $5.00 per day each for their services, payable out of the county high school fund of the county. They shall make their appraisement and return the same to the board of county commissioners of the county within ten days of the date of their appointment.

Appraisal.

Fees of appraisers.

Report.

Sale of property.

Section 7. Said board of county commissioners may thereupon at any time, at either public or private sale and either with or without advertisement of such sale, sell or dispose of all or any part of the property belonging to said high school or used in connection therewith, and shall be authorized to make and execute on behalf of the county such bills of sale, deed or other conveyances as may be necessary to transfer the title to said property to the purchaser thereof.

Sales of property, how made.

Section 8. All sales shall be for cash with preference given to a proposed use for high school, common school or other public school purposes, and no property shall be sold for less than its appraised value, provided however that the district judge appointing said appraisers, or his successor in office or another judge designated by him, may, upon the application of any person desiring to purchase said property or any part thereof, or on the application of the board of county commissioners, conduct a hearing upon the question of the reasonable value of said property and may thereupon increase or decrease the valuation put thereon by the appraisers.

Reappraisement.

HeinOnline -- 1923 345 1923

Money, how disposed of.

Section 9. All money received from the sale of said property shall be disposed of in the manner and in the order specified in Section 7 of this act.

Section 10. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 11. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 126.

An Act to Amend Section 1294 of the Revised Codes of Montana of 1921, Respecting the Requirements of District and High School Boards of Trustees in the Appointment of a Superintendent.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1294 of the Revised Codes of Montana, of 1921, be, and it is hereby amended to read as follows:

Apportionment, when authorized.

"Section 1294. Superintendent of City and County High Schools—Appointment. Whenever, after the passage and approval of this Act, the total number of school children enrolled in any county high school and in the city schools located in the same city or town with said County High School shall be fewer than nine hundred, the board of trustees of the school district in which such city schools are located, and the board of Trustees of such county high school (said boards being hereinafter designated as "the joint boards"), may, if, in the judgment of the said joint board it will be for the best interests of the said school or schools, jointly appoint a person to be known as the superintendent of city and high schools, who shall supervise the operation of both the high school and city schools in such district."

Section 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Section 3. This Act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1923.

HeinOnline -- 1923 346 1923

CHAPTER 127.

An Act to Amend Section 1271 of the Revised Codes of Montana 1921 Relating to the Powers and Duties of Boards of Trustees of County High Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1271 of Revised Codes of Montana of 1921 is hereby amended to read as follows:

1271. POWERS AND DUTIES. The Board of Trustees shall have power and it shall be their duty: Powers and duties of board.

1. To keep a record of all the official acts done by said board, and to keep a full record of all warrants issued against moneys belonging to said county high school. Payments of money can only be made upon warrants drawn against said funds belonging to said high school, and each warrant so drawn must specify upon its face the purpose for which it is drawn.

2. To proceed, as soon as practicable after their appointment and qualification, to select at the place designated as the location for the county high school, the best site that can be obtained, and the title thereto, upon securing said site by purchase or otherwise shall vest in the county; the trustees shall then proceed to make purchase of material and to let such contracts for necessary school buildings as they may deem proper. They shall not, however, make any purchase or enter into any contract, whereby obligations are assumed in excess of the amount of funds on hand, or available through the levy of taxes for the current year, or the issuance of bonds. Selection of sites.

3. To lease, at their discretion, suitable buildings for the use of the high school while the new buildings are in process of erection, or to contract with the trustees of the local school district, or any other parties, for the use of suitable buildings for high school purposes for such time as may be deemed best for the interests of the county. Leasing of buildings.

4. To employ, for a period not to exceed two years, some suitable person to take charge of said school, who shall possess such qualifications as are now required to be possessed by a city superintendent of schools; except that said principal shall not be required to possess more than three years of experience in teaching; to furnish such assistant teachers as they may deem necessary, and to designate the salaries which shall be paid to said principal and assistant teachers; provided, that such teach- Employment of principal.

HeinOnline -- 1923 347 1923

ers shall be required to have the qualifications required of a teacher to hold a position in a district high school, and also to a valid Montana certificate.

Adoption of courses of study.

5. To adopt, on the recommendation of the principal, such courses of study as will properly fit the student attending said high school for admission to the collegiate class of any of the state educational institutions and such course of study shall contain the work now provided for accredited high schools by the State Board of Education.

Admission of pupils.

6. To admit pupils without tuition under such rules and regulations as they may deem proper in regard to age and grade of attainments essential to entitle pupils to admission to such schools; provided, that no person shall be admitted to such high school who shall not have satisfactorily completed the work of the elementary grades. All eligible pupils in the county are entitled to attend the county high school, and it shall be the duty of the board to provide accommodations for such pupils.

7. To admit pupils from other counties, when there is room, upon the payment of such tuition as the board of trustees may prescribe; but at no time shall such pupils continue in such school to the exclusion of pupils residing in the county in which such school is located.

Purchase of equipment.

8. To provide, by purchase or otherwise, for school books, school furniture, repair of school buildings, furnishings or equipment and for other things needed in the school house or on the school grounds or for the use of the school board.

Section 2. All Acts and parts of Acts, in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 128.

An Emergency Act Authorizing the Board of School Trustees of Any School District, Having All or Any Part of Its Funds Deposited in Any Bank, which Has Become Insolvent, to Issue Warrants for the Necessary Current Expenses of the School to the Amount of Not to Exceed One Hundred Per Centum of Such Funds so Deposited; to Fund Such Warrants by the Issuance of Bonds Under Certain Conditions Described Herein;

HeinOnline -- 1923 348 1923

Providing for the Payment of the Principal and Interest of Such Bonds and for the Levying of a Tax Therefor; and Declaring This Act to Be an Emergency Measure.

Be it enacted by the Legislative Assembly of the State of Montana:

Trustees may issue warrants in case of bank failure, when.

Section 1. The Board of School Trustees of any school district in the State of Montana shall have, and are hereby given, in addition to powers already conferred upon them, authority, whenever at any time such district shall have all or a part of its funds deposited in any bank which has bceome insolvent, to issue warrants to the amount of not to exceed one hundred per centum of such funds so deposited for teachers' salaries, school supplies and equipment, new buildings heretofore completed, necessary repairs, school buildings and heating plants therein, or other necessary expenses incurred in the maintenance of schools in such district, and, in case such funds so deposited are not recovered in sufficient amount to pay off and discharge such warrants, and to levy taxes therefore would be burdensome to such district or would exceed the limit of taxes permitted by law to be levied, to issue negotiable coupon bonds therefor and to pledge the credit and resources of the district for the payment of the principal and interest of such bonds. The provisions of this Act shall apply to Rural School Districts organized under Chapter 80 of part 3, of the Political Code, 1921, whether the funds shall have been distributed to the sub-district or not; and the Board of Trustees of such Rural School District shall have the power to negotiate bonds, as herein provided for Trustees of School Districts, for the purpose of funding outstanding warrants of the sub-districts thereof, and to pledge the credit and resources of the Rural School District for the payment of the principal and interest of such bonds.

Funding bonds, when to be issued.

Section 2. The funding bonds authorized by this Act shall be issued under the following conditions, to-wit:

1. When the Board of Trustees shall have listed certain unpaid warrants, and certified that they were regularly issued subsequent to July 1st, 1922, for purposes set forth in Section 1, of this Act and there is not sufficient money, other than that deposited in insolvent banks, to the credit of such school district available for the payment of such outstanding warrants.

HeinOnline -- 1923 349 1923

2. When in the judgment of the Board of Trustees of such district to levy and collect a tax for the purpose of paying such warrants will be a hardship and burden to said school district.

3. When sufficient money has not been recovered from such insolvent bank or banks to pay or discharge such warrants.

4. Provided, it shall not be necessary to submit the question of the issuance of such bonds to fund such indebtedness to the vote of the electors of such school district.

Resolution.

Section 3. The Board of School Trustees shall, by resolution, declare that the existing indebtedness shall be funded by the issuance of bonds, which said resolution shall describe the amount and kinds of indebtedness, which is to be funded, and declare and certify as to the validity of such indebtedness, and that the conditions exist as specified in section 2 of this Act, which resolution and certificate shall be conclusive against the district as to the validity of indebtedness so funded in favor of holders of said bonds.

Interest and term of bonds.

Section 4. The Board of School Trustees shall, by resolution fix the rate of interest which said bonds shall bear not exceeding six per centum per annum, payable semi-annually; the denomination, form and terms thereof, which must be serial bonds for a term not to exceed ten years; such bonds shall bear the signature of the Chairman of the Board of Trustees and shall be signed by the Clerk of said district; and the coupons attached to the bonds shall be signed by the said Chairman and Clerk, provided a facsimile of the signatures of the Chairman and Clerk may be affixed to the coupon only when so recited in the bonds and the corporate seal of the school district shall be affixed to each of the bonds.

Registration.

Upon execution, the bonds shall be deposited with the County Treasurer, who shall register the same in a book provided for that purpose which shall show the number and amount of each bond, its date, the date payable and redeemable, and the person to whom the same is issued, and the county treasurer shall deliver the same to the person or persons to whom sold upon their making payment for the same or if so directed by the Board of Trustees to such person or persons who shall surrender an amount of warrants, which, with accrued interest, shall

HeinOnline -- 1923 350 1923

equal the par value of such bonds and such warrants so received by the treasurer shall be immediately cancelled.

Tax levy.

Section 5. The Board of school trustees shall provide for a tax levy to pay the principal and interest of such bonds as they mature in accordance with the provision of the laws relating to taxes and sinking fund.

Sale of Bonds.

Section 6. When the board issues any bonds authorized by this Act, it is its duty to sell the same and it shall give notice by advertisement in some newspaper published in this State at least once a week for four consecutive weeks, the date of the first publication to be not less than thirty days prior to date of sale; such advertisement must state the date, hour and place where such sale will take place and shall describe the bonds to be sold, giving the amount, denomination, rate of interest, time payable, time redeemable and purpose of the proposed bond issue. The trustees are authorized to reject any and all bids and sell such bonds at private sale if they deem it for the best interests of the district; the proceeds from the sale of such bonds to be used wholly for the purpose of taking up and retiring the outstanding indebtedness of the district as described in the resolution provided for by Section 3 of this Act. Provided, however, that the board may, if in its opinion it would be to the best interests of the district so to do, execute an exchange of such bonds by issuing the same to any person or persons holding the warrants of said district issued as provided in this Act, the exchange to be made dollar for dollar.

Advertisement.

Proceeds, how used.

Disposal of money received from bonds.

Section 7. Any money recovered from such insolvent bank or banks, after the date of the issuance of such bonds, shall be credited to the sinking fund for the retirement of such bonds.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Emergency clause.

Section 9. There being no adequate provision by law for the meeting of the emergency existing and there being a large number of school districts in the State of Montana which will be unable to continue their school operations unless their present financial condition is remedied, and, this act being deemed of immediate importance and an emergency existing within the meaning of the Constitution, therefore this Act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1923.

HeinOnline -- 1923 351 1923

CHAPTER 129.

An Emergency Act Authorizing the Board of Trustees of Any County High School Having All or Any Part of Its Funds Deposited in Any Bank, Which Has Become Insolvent, to Issue Warrants for the Necessary Current Expenses of the Said County High School to the Amount of Not to Exceed One Hundred (100) Per Centum of Such Funds so Deposited: Authorizing the Board of County Commissioners to Refund Such Warrants by the Issuance of Bonds Under Certain Conditions Described Herein; Providing for the Payment of the Principal and Interest of Such Bonds and for the Levying of the Tax Therefor: and Declaring This Act to Be an Emergency Measure.

Be it enacted by the Legislative Assembly of the State of Montana:

Trustees may issue warrants in case of bank failure, when.

Section 1. The Board of Trustees of any county high school in the State of Montana shall have and are hereby given, in addition to powers already conferred upon them authority, whenever at any time such county high school shall have all or part of its funds deposited in any bank, which has become insolvent, to issue warrants to an amount of not to exceed 100 per centum of such funds so deposited, for teachers' salaries, school supplies and equipment, new buildings heretofore completed, necessary repairs to school buildings and heating plants therein or other necessary expenses incurred in the maintenance of such school, and, in case such funds so deposited are not recovered in sufficient amount to pay off and discharge such warrants and to levy a tax therefor, will be burdensome to such county or will exceed the limit of taxes permitted by law to be levied, the Board of County Commissioners of such county shall have and are hereby given in addition to the powers already conferred upon them, authority to issue negotiable coupon bonds therefor and to pledge the credit and resources of the county for the payment of the principal and interest of such bonds.

Section 2. The funding bonds authorized by this act shall be issued under the following conditions, to-wit:

Funding bonds may be issued, when.

1. When the Board of Trustees shall have listed certain unpaid Warrants, and certified that they were regularly issued subsequent to July 1st, 1922, for purposes set forth in Section 1, of this act, and there is not sufficient money, other than that deposited in insolvent

HeinOnline -- 1923 352 1923

banks, to the credit of such school district available for the payment of such outstanding warrants.

2. When in the judgment of the board of County commissioners of such county to levy and collect a tax for the purpose of paying such warrants will be a hardship and burden to said school district;

3. When sufficient money has not been recovered from such insolvent bank or banks to pay or discharge such warrants; and

4. When to levy a tax therefor would exceed the limit of taxation allowed by law. Provided, it shall not be necessary to submit the question of the issuance of such bonds to fund such indebtedness to the vote of the electors of such county.

Resolution.

Section 3. The Board of county commissioners shall, by resolution, declare that the existing indebtedness shall be funded by the issuance of bonds, which said resolution shall describe the amount and kinds of indebtedness, which is to be funded, and declare and certify as to the validity of such indebtedness and that the conditions exist as specified in

Conclusiveness of resolution.

Section 2, of this Act, which resolution and certificate shall be conclusive against the county as to the validity of indebtedness funded in favor of holders of said bonds.

Interest and terms of bonds.

Section 4. The Board of county commissioners shall, by resolution, fix the rate of interest which said bonds shall bear not exceeding six per centum per annum, payable semi-annually; the denomination, form and terms thereof, which must be serial bonds for a term not to exceed ten years; such bonds shall bear the signature of the chairman of the board of county commissioners and shall be signed by the clerk of said county; and the coupons attached to the bonds shall be signed by the said chairman and clerk, provided a facsimile of the signatures of the chairman and clerk may be afixed to the coupon only when so recited in the bonds and the corporate seal of the county shall be affixed to each of the bonds.

Registration.

Upon execution, the bonds shall be deposited with the county treasurer, who shall register the same in a book provided for that purpose which shall show the number and amount of each bond, its date, the date payable and redeemable, and the person to whom the same is issued, and the county treasurer shall deliver the same to the person or persons to whom sold upon their making payment for the same or if so directed by the board of

HeinOnline -- 1923 353 1923

county commissioners to such person or persons who shall surrender an amount of warrants, which with accrued interest, shall equal the par value of such bonds and such warrants so received by the treasurer shall be immediately cancelled.

Tax levy.

Section 5. The board of county commissioners shall provide for a tax levy to pay the principal and interest of such bonds as they mature.

Sale of bonds.

Advertisement.

Section 6. When the board issues any bonds authorized by this Act, it is its duty to sell the same and it shall give notice by advertisement in some newspaper published in this State at least once a week for four consecutive weeks, the date of the first publication to be not less than thirty days prior to date of sale; such advertisement must state the date, hour and place where such sale will take place and shall describe the bonds to be sold, giving the amount, denomination, rate of interest, time payable, time redeemable and purpose of the proposed bond issue. The Board of County Commissioners are authorized to reject any and all bids and sell such bonds at private sale if they deem it for the best interests of the county; the proceeds from the sale of such bonds to be used wholly for the purpose of taking up and retiring the outstanding indebtedness of the county high school as described in the resolution provided for by Section 3 of this act. Provided, however, that the board may, if in its opinion it would be to the best interests of the county so to do, execute and exchange of such bonds by issuing the same to any person or persons holding the warrants of said county issued as provided in this act, the exchange to be made dollar for dollar.

Exchange of bonds.

Disposal of money received from bank.

Section 7. Any money recovered from such insolvent bank or banks, after the date of the issuance of such bonds, shall be credited to the sinking fund for the retirement of such bonds.

Section 8. All Acts and parts of acts in conflict herewith are hereby repealed.

Emergency clause.

Section 9. There being no adequate provision by law for the meeting of the emergency existing and there being a number of county high schools in the state of Montana which will be unable to continue their school operations unless their present financial condition is remedied, and, this act being deemed of immediate importance, and an

HeinOnline -- 1923 354 1923

emergency existing within the meaning of the Constitution, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 130.

An Emergency Act Authorizing the Board of School Trustees of Any School District to Fund Outstanding Indebtedness by the Issuance of Ten Year Amortization Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

School trustees may fund outstanding indebtedness.

Section 1. The board of school trustees of any school district in the State of Montana shall have, and are hereby given, in addition to the powers already conferred upon them, authority, whenever at any time such district shall have a floating indebtedness incurred on or before July 1, 1923, for teachers' salaries, school supplies and other necessary expenses incurred in the maintenance of schools in such district represented by warrants heretofore issued whether in excess of funds on hand and anticipated revenues or otherwise to fund such indebtedness and to issue negotiable ten year amortization bonds therefor and to pledge the credit and resources of the district for the payment of the principal and interest of such bonds.

Amortization bonds.

Issuance of warrants in excess of available funds, when.

Section 2. In addition to the powers conferred by Section 1 of this Act, and in anticipation of the subsequent issuance of the funding bonds authorized by this Act, but subject to the constitutional limitations as to the total indebtedness of school districts, all boards of school trustees are hereby given authority to issue warrants in excess of the available funds of the school district, and in excess of the amount levied by said school district for the current school year. Said warrants shall be issued only in payment of the current expenses of said school for the completion of the school year of 1922-1923 and not for the purpose of increasing salaries, purchasing new equipment or increasing school facilities in any manner whatsoever. The warrants so issued may likewise be funded in accordance with the terms of this Act.

Funding bonds, may be issued when.

Section 3. The funding bonds authorized by this Act shall be issued under the following conditions, to-wit:

HeinOnline -- 1923 355 1923

1. When there is not sufficient money to the credit of said school district applicable to the payment of any such outstanding indebtedness; and

2. When, in the judgment of the board of school trustees, to levy and collect a tax for the purpose of paying such indebtedness would be a hardship and burden to said school district;

Provided, it shall not be necessary to submit the question of the issuance of such bonds to fund such indebtedness to the vote of the electors of such district.

Resolution.

Section 4. The board of school trustees shall, by resolution, declare that the existing indebtedness shall be funded by the issuance of bonds, which said resolution shall describe the amount and kinds of the indebtedness which is to be funded and declare and certify as to the validity of such indebtedness, which resolution and certificate shall be conclusive against the district as to the validity of the indebtedness so funded in favor of innocent holders of said bonds.

Interest and term of bonds.

Section 5. The board of school trustees shall, by resolution, fix the rate of interest which said bonds shall bear, not exceeding six per centum per annum, payable semi-annually; the time of payment not exceeding ten years after date; if redeemable before maturity, the date thereof; and shall prescribe the denomination and form thereof; such bonds shall bear the signature of the chairman of the board of trustees and shall be signed by the clerk of said district; and the coupons attached to the bonds shall be signed by the said chairman and clerk, provided a facsimile of the signature of the chairman and clerk may be affixed to the coupon, only when so recited in the bonds, and the corporate seal of the school district shall be affixed to each of the bonds. Upon execution, the bonds shall be deposited with the county treasurer, who shall register the same in a book provided for that purpose, which shall show the number and amount of each bond, its date, the date payable and redeemable, and the person to whom the same is issued, and the county treasurer shall deliver the same to the person, or persons, to whom sold, upon their making payment for the same, or, if so directed by the board of trustees, to such person, or persons, as shall surrender an amount of warrants which, with accrued interest, shall equal the par value of such bonds, and said warrants so received by the treasurer shall be duly cancelled.

Registration.

HeinOnline -- 1923 356 1923

Tax levy.

Section 6. The board of school trustees shall provide for a tax levy to pay the principal and interest of said bonds as they mature, in accordance with the provisions of Section 1228 of the Revised Codes of Montana of 1921.

Sale of bonds.

Advertisement.

Section 7. When the board issues any bonds authorized by this chapter, it is its duty to sell the same and they shall give notice by advertising in some newspaper published in this State at least once a week for four consecutive weeks, the date of the first publication to be not less than thirty days prior to date of sale, such advertisement must state the date, hour and place where such sale will take place and shall describe the bonds to be sold, giving the amount, denomination, rate of interest, time payable, time redeemable and purpose of the proposed bond issue. The Trustees are authorized to reject any and all bids and sell such bonds at private sale if they deem it for the best interest of the district, the proceeds from the sale of such bonds to be used wholly for the purpose of taking up and retiring the outstanding indebtedness of the district as described in the resolution provided by Section 4 of this Act; provided, however, that the board may, if in its opinion it would be to the best interests of the district so to do, effect an exchange of such school district bonds to take up such legal outstanding indebtedness by issuing the same to any person or persons holding the school district warrants or just claims against the school district as set forth in the resolution as provided in Section 2 of this Act, the exchange to be made dollar for dollar.

Proceeds, how used.

Exchange of bonds.

Section 8. All Acts or parts of Acts in conflict herewith are hereby repealed.

Emergency clause.

Section 9. There being no adequate provision by law for the funding of indebtedness of school districts, and there being a large number of districts which will be unable to continue their school operations unless their present indebtedness be funded into bonds, and this Act being deemed of immediate importance, and an emergency existing in the meaning of the constitution, therefore, this Act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1923.

HeinOnline -- 1923 357 1923

CHAPTER 131.

An Act to Repeal Section 836, Paragraph 7, of the Revised Codes of Montana 1921, Relating to Powers and Duties of State Board of Education; to Repeal Sections 837, 838, 839 and 840 of the Revised Codes of Montana 1921, Relating to the Issuance of State Certificates and Life Certificates; to Amend Section 944 of the Revised Codes of Montana 1921, Relating to Examinations; to Repeal Section 947 of the Revised Codes of Montana 1921, Relating to Temporary State Certificates; to Repeal Sections 1074 of the Revised Codes of Montana 1921, Relating to Certificate of Qualification, 1086 of the Revised Codes of Montana 1921, Relating to Normal Training Requirements, and 1087 of the Revised Codes of Montana 1921, Relating to Suspension of Teachers' Certificates; to Amend Chapter 86 of the Political Codes of Montana 1921, Pertaining to State and County Examinations and Certificates, and Being an Act Codifying and Amending the School Laws of Montana Regarding Examination and Certification of Teachers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Paragraph 7 of Section 836 of chapter 65 of the Revised Codes of Montana 1921, relating to powers and duties of State Board of Education be repealed.

Section 2. That Sections 837, 838, 839 and 840 of Chapter 65 of the Revised Codes of Montana 1921, relating to state and life certificates be repealed.

Section 3. That Section 944 of Chapter 75 of the Revised Codes of Montana 1921, relating to examinations be and the same is hereby amended to read as follows:

Power to regulate Examinations.

"944. Examinations.—He shall, with the co-operation of the State Board of Educational Examiners, prepare all questions to be used in the examinations of applicants for teachers' certificates, and prescribe the rules and regulations for conducting all such examinations."

Section 4. That Section 947 of Chapter 75 of the Revised Codes of Montana 1921, relating to temporary state certificates, be and the same is hereby repealed.

Section 5. That Section 1074 of Chapter 85 of the Revised Codes of Montana 1921, relating to certificate of qualification be and the same is hereby repealed.

HeinOnline -- 1923 358 1923

Section 6. That Section 1086 of Chapter 85 of the Revised Codes of Montana 1921, relating to normal training requirements be and the same is hereby repealed.

Section 7. That Section 1087 of Chapter 85 of the Revised Codes of Montana 1921, relating to suspension of teachers' certificates be and the same is hereby repealed.

Section 8. That chapter 86 of the Revised Codes of Montana 1921, relating to examinations and certificates be and the same is hereby amended to read as follows:

"1088. Examinations and Certificates.

Certificate of Qualification Required of Teachers.

Teachers certificates, to whom issued.

1. No certificate to teach in the public schools of Montana shall be granted to any person who is not a citizen of the United States or who has not declared his intention of becoming a citizen of the United States; provided that, when such certificate to teach in the public schools in the state shall be issued to any person who shall not within seven years become a citizen, such certificate shall be automatically revoked and such person shall be ineligible to receive a certificate until he becomes a full citizen.

Eligibility.

2. No person is eligible to teach in any public school in this state, or to receive a certificate to teach, who has not attained the age of eighteen years and who has not secured a health certificate from a reputable physician.

Who are qualified teachers.

3. No person shall be accounted a qualified teacher within the meaning of the school law who has not first secured from the state board of educational examiners a certificate setting forth his qualifications; or who has not secured a temporary certificate from the state board of educational examiners; or who has not a certificate endorsed by the county superintendent of schools; or who has not a state certificate or a life certificate issued by the state board of education or the state board of educational examiners; or who has not a temporary state certificate issued by the state superintendent; or who does not hold a certificate from the State Normal College; or who has not a university certificate of qualification to teach.

Registration of certificates.

4. All certificates before they shall be valid in any county must be registered in the office of the county superintendent of schools of such county within ten days after the term of service of any teacher begins. Not more than ten days' salary shall be paid any teacher

HeinOnline -- 1923 359 1923

for services rendered previous to the registration of such certificate."

"1089. The State Board of Educational Examiners.

Board of Educational examiners.

1. There is hereby created a state board of educational examiners whose duty it shall be to provide rules and regulations for the issuance of all teachers' certificates. Such rules and regulations shall be subject to the approval of the state board of education. The state board of educational examiners shall prepare the questions for teachers' examinations, provide the necessary assistance and oversee the marking and grading of papers.

Duties.

Composition of board.

2. This board of educational examiners shall be composed of the superintendent of public instruction, who shall be ex-officio chairman of the board, one member from the faculty of one of the component institutions of the University of Montana, one county superintendent of schools, one high school principal, and one district superintendent, all four to be elected by the state board of education upon the nomination of the superintendent of public instruction at the April meeting of the board.

Appointment.

3. All appointments shall be for two years except two of the first appointments, which two shall be for one year.

Vacancies.

All vacancies shall be filled for the unexpired term. The members shall serve without pay except for necessary expenses and any bills incurred by them must be paid out of the monies received as fees for certificates."

"1090. County Board of Educational Examiners.

County board of examiners, composition.

1. How Constituted.—In each county there shall be a board of county examiners composed of the county superintendent of schools who shall be ex-officio chairman of the board, and two competent persons recommended by the county superintendent, appointed by the board of county commissioners, who at the time of their appointment shall be residents of the county and shall have been actively engaged in teaching for a period of at least eighteen months. Two members of this board shall constitute a quorum for the transaction of business. If vacancies occur in these positions during the terms for which their incumbents were appointed, their successors shall be appointed to serve during unexpired terms only. Upon the expiration of the regular term of either of these examiners his successor shall be appointed to serve for two years.

Quorum.

Vacancies.

Qualifications.

2. Qualifications.—Such examiners at the time of their appointment, must be holders of Montana professional county certificates, or state certificates, or life

HeinOnline -- 1923 360 1923

certificates or diplomas from the State University, State Normal College, or State College of Agriculture and Mechanic Arts, or holders of diplomas as graduates from some reputable university, college, or normal school other than those of Montana. These examiners shall qualify for their positions in the same form and manner required for the qualification of all county superintendents.

Duties.

3. Duties.—The duties of these two examiners shall be to act jointly and equally with the county superintendent in the matter of conducting the examination of teachers when requested so to do by the county superintendent. The board of examiners shall also conduct all eighth grade examinations in their respective counties when requested to do so by the state board of education under their rules and regulations; and it shall be empowered to grant eighth grade diplomas or common school certificates to all examinees successfully passing such examinations.

Compensation.

4. Compensation.—The compensation of these examiners shall be their actual traveling expenses from their residences to and from the county seat or other point in the county where the examinations are held, and such further compensation per diem as the board of county commissioners may deem just and sufficient for their services, basing such compensation upon the actual quantity of work performed by them and the actual time required to perform it. Such claims shall have the approval of the county superintendent of schools."

"1091. Teachers' Examinations.

Teacher's examinations, how conducted.

1. The county board of educational examiners shall hold public examinations of all persons over eighteen years of age offering themselves as candidates for certificates to teach at the county seat, on the first Thursday and Friday of May and October of each year, and, when necessary, such examinations may be continued on the following day, at which time the board shall examine such candidates by a series of written or printed questions, according to rules prescribed by the state board of educational examiners. The questions prepared by the state board of educational examiners, when received by the county superintendent, shall not be opened or the seal thereof broken until the day of examination and then in the presence of the applicants. And the county superintendent is prohibited from furnishing or giving to any person or persons any information concerning the questions prepared by the state board of educa-

HeinOnline -- 1923 361 1923

tional examiners. Upon the completion of the examination, all papers written by the several applicants, together with statements covering such points in the candidates' preparation and experience as the state board of educational examiners may require and personal information or recommendations by the county board of educational examiners, shall be forwarded at once to the state board of educational examiners for grading.

Papers.

Place of examination.

2. If the attendance upon any examination of teachers at the county seat shall work a great hardship on any teacher in the county, the county superintendent, upon the approval of the state superintendent, may provide for such teachers to take the examination at some convenient place, and the county superintendent may appoint some suitable person to conduct such examination, under the rules and regulations prescribed by the state board of educational examiners.

Grading of papers.

3. Grading of Papers. If the percentage of correct answers is not less than 70% in any one branch with a general average of 80%, and other evidence disclosed by the examination including particularly the state board's knowledge and information of the candidate's scholarship and successful experience, indicates that the applicant is a person of good moral character and possesses ability to manage, and fitness to teach in the public schools of the state the various branches required by law, said state board shall grant to such applicant a certificate of qualification."

Classes of certificates.

"1092.—Certificates—Kinds.

Second grade.

1. Second Grade.—To secure a second grade certificate no experience is required. Applicants for this grade must present evidence of good moral character and physical health and shall pass an examination in the following branches, or such additional branches as may hereafter be prescribed by the state board of educational examiners with the approval of the state board of education: reading, writing, arithmetic, spelling, grammar, geography, physiology and hygiene, United States history, civics (state and federal), agriculture, and methods of teaching Beginning September 1, 1924 the following subjects shall be added, school management and American literature, including literature for children in elementary schools. This certificate shall be valid for a period of twenty-four months and on being endorsed and registered in the office of the county superintendent, shall be valid in any county in the state.

HeinOnline -- 1923 362 1923

2. First Grade.—To secure a first grade certificate, the applicant must present evidence of good moral character and physical health, must have had twelve months' successful experience as a teacher and must in addition to the branches required for a second grade certificate, take an examination in American literature, physical geography, elementary psychology and school management and such other branches as may be prescribed by the state board of educational examiners with the approval of the state board of education. Beginning September 1, 1924 physical geography, American literature, school management, and elementary psychology shall no longer be required for a first grade certificate and the following subjects shall be added: educational psychology, economics, school law and principles of education. This certificate shall be issued for a period of three years and shall be valid in any county on being endorsed and registered in the office of the county superintendent. After September 1, 1924 all first grade certificates whether newly issued or renewed shall be valid for four years from the date of issuance. First grade.

3. Professional.—To secure a professional certificate the applicant must present evidence of good moral character and physical health, must have had at least eighteen months' successful experience as a teacher, and in addition to the branches required for a first grade certificate, must pass an examination in Montana school law, educational psychology, principles of education and such other branches as may be prescribed by the state board of educational examiners with the approval of the state board of education. This certificate shall be issued for a period of four years and shall be valid in any county on being endorsed and registered in the office of the county superintendent of schools. After September 1. 1924 the initial issuance of professional certificates shall be discontinued. The provisions of this Section shall not effect the renewability of certificates already in effect on September 1, 1924. Professional.

4. Permits.—The state board of educational examiners may grant a permit to teach until the next regular examination to any person applying at any other time than at a regular examination, and who has previously held a valid certificate to teach, or who has had training beyond high school graduation or who meets the minimum academic and professional prerequisites in effect when application is made, but such permit shall not be granted Special permits.

HeinOnline -- 1923 363 1923

more than once to any person; provided, (1) that when it is impossible because of sickness or other valid reasons for such teacher to attend the next regular examination, such teacher shall certify the facts to the state board of educational examiners, together with the approval of the county superintendent of schools, and this board may issue a second permit valid until the next regular examination; provided, (2) that the state board of educational examiners shall be authorized to provide special examinations for persons who do not or cannot take the regular examinations for the reasons stated above in which case the duration of the permit may be extended only until the time of said special examination, for which examination an extra fee of one dollar above the regular fee shall be paid into the state teachers' certificate fund.

Special examination.

Fee.

Temporary certificates.

5. Temporary Certificates.—When a teacher shows special fitness to teach and passes at the examination 70% or above in all subjects but fails to make an average of 80%, or secures an average of 80% for all branches but fails to make 70% in one or two branches, such teacher may, at the discretion of the state board of educational examiners, be issued a temporary certificate to teach until the next regular examination; and at such examination no teacher shall be required to be examined in any branch in which he has obtained a grade of 80% in the aforementioned examination. Such temporary certificates shall not be issued to any teacher more than once.

State certificates, how obtained.

6. State Certificates—How Obtained.

(a) By Examination.—A state certificate may be issued for a period of six years by the state board of educational examiners to any person of good moral character who has held for one year and still holds a Montana professional certificate in full force and effect, or a first grade certificate newly isued after September 1, 1924 or renewed thereafter, (provided the holder of the renewed first grade certificate writes upon and passes examination upon the additional subjects prescribed for first grade certificates after that date), when such person has passed a satisfactory examination under the direction of the state board of educational examiners, in English literature, history of education, and modern history, and has furnished satisfactory evidence of having taught successfully for thirty-five months.

(b) By Endorsement.

When issued by other states.

(1) State Certificates Issued by Other States.—A state certificate may be issued in accordance

HeinOnline -- 1923 364 1923

with regulations established by the state board of educational examiners and approved by the state board of education to the holder of a state certificate issued by another state; provided, that such regulations shall not authorize the issuance of a state certificate to any person whose character, professional qualifications and experience are not at least substantially equivalent to those prescribed by this Act for the issuance of a state certificate by examination.

Recognition of diploma from University of Montana.

(2) Recognition of Certificates Issued by Component Institutions of University of Montana.—A diploma of the Montana State Normal College or of any normal school that may hereafter be established under the control of the state board of education, or a University of Montana certificate of qualification to teach when accompanied by a diploma either of the Montana State University or of the Montana State College of Agriculture and Mechanic Arts, shall constitute a state certificate good for six years after date; provided, that the rules of the faculties of the State University and of the State College of Agriculture and Mechanic Arts for the issuance of the University of Montana certificate of qualification to teach, as approved by the Chancellor of the University of Montana, shall be submitted to the state board of education for its sanction. A list of graduates receiving such certificates shall be filed in the office of superintendent of public instruction by the Chancellor of the University of Montana within thirty days of issuance of said certificates.

Diplomas from other institutions.

(3) Diplomas From Other Institutions.—A state certificate may be issued by the state board of educational examiners to a graduate of any other college, university, or normal school within or without the state in accordance with regulations established by said board and approved by the state board of education; provided, that such regulations shall not authorize the issuance of a state certificate to a graduate of any institution whose requirements for graduation are not substantially the full equivalent of those of the corresponding institution of the University of Montana; nor shall said certificate be granted to any such graduate whose preparation in professional courses is not equivalent to those required for the issuance of a state certificate from the corresponding institution of the University of Montana.

Life certificates, how obtained.

7. Life Certificates—How Obtained.

(a) By Examination.—A life certificate by exam-

HeinOnline -- 1923 365 1923

By examination.

ination may be issued by the State board of educational examiners upon the same conditions as a state certificate, except that, in addition, the applicant must pass satisfactory examinations and tests under such supervision and upon such additional subjects as may be prescribed by the state board of educational examiners with the approval of the state board of education, and must furnish satisfactory evidence of having taught successfully for seventy months; providing; that an applicant who already holds an unexpired Montana state certificate obtained by examination shall be exempt from the examinations in the subjects required for state certificates.

By endorsement.

(b) By Endorsement.—The state board of educational examiners may require, as a prerequisite for the granting of any life certificate by endorsement, evidence of the accomplishment of a minimum amount of reading circle work or other substantial improvement while in service prior to the issuance thereof. Life certificates may be obtained by endorsement in the following ways:

Life certificates issued by other states.

(1) Life Certificates Issued by Other States.—A life certificate may be issued in accordance with regulations established by the state board of educational examiners and approved by the state board of education to the holder of a life certificate issued by another state; provided, that such regulations shall not authorize the issuance of a life certificate to any person whose character, professional qualifications, and experience are not at least substantially equivalent to those prescribed by this Act for the issuance of a life certificate by examination.

Life certificate on degree from University of Montana.

(2) Degrees and Certificates of the University of Montana.—Any person holding a degree and certificate from the Montana State University or from the Montana State College of Agriculture and Mechanic Arts, and any graduate and holder of a certificate from the Montana State Normal College or from any normal school that may hereafter be established under the control of the state board of education, extending two or three years beyond the secondary school, shall be entitled to a life certificate on presenting to the state board of educational examiners satisfactory evidence of having taught successfully in the state for twenty-seven months after graduation and during the life of said certificate.

On diploma from other institutions.

(3) Diplomas From Other Institutions. A life certificate may be issued by the state board of educational examiners to a graduate of any other college, uni-

HeinOnline -- 1923 366 1923

versity, or normal school within or without the state in accordance with regulations established by the state board of educational examiners and approved by the state board of education, provided that such regulations shall not authorize the issuance of a life certificate to a graduate of any institution whose requirements for graduation are not substantially the full equivalent of those of the corresponding institution of the University of Montana, nor to anyone whose preparation in professional courses is not substantially equivalent to the certificate requirements of the corresponding institution of the University of Montana: and provided, further, that such regulations shall not authorize the issuance of a life certificate to any person who does not present satisfactory evidence of having taught successfully for at least as long a time after graduation as is required by law for the issuance of life certificates to graduates of the several institutions of the University of Montana.

Temporary state certificates

8. Temporary State Certificate.—The state superintendent may grant a temporary state certificate, at any time to any teacher whose experience, qualifications and credentials, in his opinion, entitle such a teacher to either a state or life certificate in Montana. Such temporary state certificate shall be good and valid in any county in the state for a period of one year; provided, however, that the holder of such certificate shall have it duly registered in the office of the county superintendent of schools of the county in which he is employed to teach before he begins teaching, and provided, also, that such teacher shall pay the sum of three dollars ($3.00) into the State Teachers' Certificate Fund.

Special certificates.

9. Special Certificates.—Upon the request of any board of school district trustees or its representatives or any county superintendent of schools, the superintendent of public instruction in accordance with regulations established by the state board of educational examiners, may grant without examination, a special certificate valid only in the district requesting the same, in music, art, public speaking, physical education, penmanship, manual training, home economics, agriculture, commercial and kindred subjects, first three-year primary, and kindergarten grades to any teacher who presents satisfactory evidence of special proficiency for teaching the above subjects, as shown by acceptable certificate or other credentials held by such teacher; provided, that such special dent of public instruction in accordance with regulations

HeinOnline -- 1923 367 1923

Fee.

payment of one dollar ($1.00) into the state teachers' certificate fund, shall entitle the holder to teach only such special subjects as are stated in said certificate; provided, that if the applicant continues teaching in the same district more than one year, upon the renewed application to the state board of educational examiners and upon the payment of a fee of three dollars ($3.00) into the state teachers' certificate fund, said special certificate may become valid during the term of service in the same district."

Classification and jurisdiction of certificates.

"1093. Classification and Jurisdiction of Certificates. 1. Nothing in this article shall be construed to affect the jurisdiction of certificates heretofore described and which are now in force or which shall be issued or renewed prior to September 1, 1924.

2. After September 1, 1924, all Montana second grade and Montana first grade certificates newly issued shall be valid in the public schools of Montana in grades one to eight, inclusive.

3. All state and life certificates described in the preceding sections and which shall be newly issued after September 1, 1924 shall be classified and have their jurisdiction determined in accordance with regulations established by the state board of educational examiners and approved by the state board of education on the basis of preparation as follows:

'Said state and life certificates newly issued after said date shall be classified as (1) Montana Elementary State Certificates and (2) Montana Elementary Life Certificates; and (3) as Montana Secondary State Certificates and (4) Montana Secondary Life Certificates.

The Montana State and Life Elementary certificates shall be valid in grades one to ten, inclusive, and may have their jurisdiction extended to grades eleven and twelve by meeting the requirements of specialized preparation to be prescribed by regulations established by the state board of educational examiners.

Montana Secondary State and Montana Secondary Life certificates shall be valid in grades five to twelve, inclusive, of the public schools of Montana, and said certificates may have their jurisdiction extended to grades one to four, inclusive, by meeting the specialized preparation to be prescribed by regulations established by the state board of educational examiners.'

4. All state, life and professional certificates shall qualify the holder to act as supervisor over all grades of

HeinOnline -- 1923 368 1923

both elementary and high schools in third class districts provided that after September 1, 1924 the jurisdiction of said certificates in order to be valid in all third class districts must be extended by the holder by specialized preparation as prescribed in Section 1093, paragraph 3 above. The requirements for administrative positions in first and second class districts as prescribed in Section 982 of the Revised Codes of Montana 1921 shall not be affected by these provisions.

5. Upon all permits and certificates issued or renewed after September 1, 1924 the jurisdiction thereof shall be specifically stated for the information of principals, superintendents and boards of education."

"1094. Academic and Professional Preparation Required as Prerequisite for Issuance of Certificates.

Preparation required for issuance of certificates after Sept. 1, 1924.

1. From and after September 1, 1924 the minimum academic and professional preparation for the issuance of any certificate listed in the foregoing sections shall be graduation from a four year accredited high school or its equivalent and twelve quarter credits of professional training as defined in regulations to be established by the state board of educational examiners. After September 1, 1926 this minimum af academic preparation shall be graduation from a four year accredited high school or its equivalent and twenty-four quarter credits of approved academic and professional preparation; and from and after September 1, 1929 said minimum shall be four years of high school preparation, or its equivalent and forty-eight quarter credits of approved academic and professional preparation. This law shall not be construed to prevent the renewal of any first grade, professional or state certificate issued prior to the passage of this Act.

2. No state or life certificate shall be issued after September 1, 1924, to any teacher who does not have two years of college, normal school, or university training in addition to four years of high school preparation, or their equivalents. This shall not prevent the renewal of state certificates issued prior to the passage of this Act."

"1095. Fees and Funds.

Fees for certificates.

1. Fees for Certificates.—Applicants for any of the following grades of certificates shall pay to the county superintendent the fee attached thereto; the schedule of fees for lower grades of certificates shall be one dollar ($1.00) for a second grade, two dollars ($2.00) for a first grade and three dollars ($3.00) for a professional grade of certificate. These fees shall be sent by the

HeinOnline -- 1923 369 1923

county superintendent to the state board of educational examiners to be deposited with the state treasurer in the state teachers' certificate fund. Fees for state and life certificates shall be fixed by regulation of the state board of educational examiners with the approval of the state board of education.

State teachers certificate fund.

2. State Teachers' Certificate Fund.--All fees collected for certificates by the county superintendents, superintendents of public instruction and the state board of eductional examiners shall be deposited with the state treasurer and kept in a fund to be known as the state teachers' certificate fund, and no claim shall be paid from this fund except upon warrants drawn by the state auditor upon claims approved by the state board of examiners and the superintendent of public instruction."

Recanvass of papers on appeal.

"1096. Recanvass of Papers on Appeal.—Any candidate thinking an injustice has been done, by paying a fee of two dollars ($2.00) into the state teachers' certificate fund within six months after the date of the examination and by notifying both county and state superintendents of the same, shall have his papers re-examined by the state board of educational examiners. The county superintendent shall upon receipt of such notice from said complaining candidate notify the superintendent of public instruction, who shall have the state board of educational examiners re-examine the same and if the answers warrant it, the state board of educational examiners shall issue to such complaining candidate a certificate of proper grade, and the superintendent of public instruction shall return the appeal fee of two dollars ($2.00) to the teacher."

Re-examination.

"1097. Revocation and Suspension of Certificates.

Revocation of certificates.

1. Revocation of Certificates.—The state board of educational examiners is authorized and required to revoke and annul, at any time any certificate issued hitherto by the state board of education or state board of educational examiners, or which may hereafter be issued by the state board of educational examiners, for any cause which would have required or authorized either board to refuse to grant it if known at the time it was granted, and for incompetency, immorality, intemperance. physical inability, crime against the state law, refusal to perform duty or general neglect of the business of the school; but, before any such revocation, the holder shall be served by the superintendent of public instruction with a written statement of the charges

HeinOnline -- 1923 370 1923

against him, and shall have an opportunity for defense before the state board of educational examiners.

Right of appeal.

Any person whose certificate is revoked under the provisions of this Section shall have the right to appeal within 30 days to the state board of education for a review of the record of his hearing before the state board of educational examiners. If, in the judgment of the state board of education, a miscarriage of justice has occurred, they shall order a rehearing of the case before the state board of educational examiners. The decision of the state board of educational examiners after such second hearing and their decision in all cases where appeal has not been made within thirty days as prescribed above, shall be final.

Rehearing on appeal.

Suspension and cancellation of teacher's certificates.

2. Suspension and Cancellation of Teachers' Certificates for Violation of Contract. Should any teacher employed by a board of school trustees for a specified time, leave the school before the expiration of such time, without the consent of the trustees in writing, or without good cause in the judgment of the state board of educational examiners, said teacher shall be guilty of unprofessional conduct, and the state board of eudcational examiners may, upon receiving notice of such fact, and after making investigation of the circumstances thereof, suspend the certificate of such teacher for the remainder of that school year, or the next ensuing school year, or both. A second serious violation of contract by the same teacher shall, in the discretion of the state board of educational examiners, be deemed sufficient cause for the revocation of said teachers' certificate."

Renewals.

"1098. Renewals.—Before the expiration of any state professional or first grade certificate, such certificate shall be renewed by the state board of educational examiners, upon the proper fee being paid into the state teachers' certificate fund, as provided for in Section 1095. 1 of this chapter and in the regulations established by the state board of educational examiners with the approval of the state board of education; provided, (1) that no state certificate shall be renewed unless said applicant shall have taught successfully thereon for twenty-seven months during the life of said certificate, but renewal when made shall be for a period of six years from the date of renewal; and provided (2) that no professional or first grade certificate shall be renewed unless the applicant shall have taught successfully, as shown by two

HeinOnline -- 1923 371 1923

or more testimonials, at least twelve months during the life of such certificate; and provided (3) that the state board of educational examiners may require evidence of the accomplishment of a minimum amount of reading circle work or other evidence of professional improvement as a prerequisite for the renewal of any certificate and provided (4) that there shall be no limit to the possible number of renewals."

Higher grade certificate, how secured.

"1099 Higher Grade Certificates—How Secured. Whenever application is made by a holder of an unexpired state, professional, first or second grade certificate, for examination for a higher grade of certificate, and it shall be made to appear to the state board of educational examiners that such applicant has been engaged in teaching successfully, as shown by two or more testimonials, in any of the schools of the state, for a period of seventeen months or more during the life of a state or professional certificate, or for a period of twelve or more months during the life of a first or second grade of certificate, the applicant shall be entitled to have credited on such higher certificate all grades of 80% or above appearing on the unexpired certificate and shall not be required to be examined in any studies except the additional ones prescribed for such higher certificates and such studies listed upon his unexpired certificate showing a grade lower than 80%.

All applicants seeking a higher grade of certificate as here prescribed shall also be subject to the academic requirements prescribed in Section 1094 of this Chapter after the dates stipulated therein.

University credits acknowledged.

"1100. University Credits Acknowledged.—Any applicant for any grade certificate who has completed at any of the institutions of the University of Montana any branch for such certificate, shall upon filing with the state board of educational examiners a statement from the president of said institution to that effect, have such grade credited without examination on such certificate, provided that such grades may be applied toward another certificate of the same or a higher grade only when the applicant satisfies the state board of educational examiners that the teaching record of the applicant has been successful."

Validation of existing certificates.

"1101. Existing Certificates Validated.—Any person now holding a state, professional, a first grade or a second grade certificate, shall be permitted to teach thereunder during the life of such certificate."

HeinOnline -- 1923 372 1923

"1102. Training of Teachers.

Discrimination forbidden.

1. No Discrimination Against Montana Trained Teachers.—No certificate regulation shall be made requiring higher standards for Montana trained teachers than are required of teachers coming into Montana, but who were trained elsewhere.

Requirments for normal training teachers.

2. Normal Training.—From and after the passage of this bill no person shall be given a regular certificate to teach who has not had at least nine weeks of normal training as defined in regulations adopted by the state board of educational examiners and approved by the state board of education."

Principals and high school teachers' certificates.

"1103. Principals and High School Teachers' Certificates.—No person shall be employed as a teacher in a high school or as the principal teacher of a school of more than three departments who is not the holder of a professional certificate, or a Montana state or life certificate, or who is not the graduate of some reputable university, college, or normal school recognized by the state board of educational examiners."

"1104. Types of Certificates Established for the Purpose of Articulating With Neighboring States Having Similar Types of Certificates.

Reciprocating arrangements with other states having similar types of certificates authorized.

1. Certificating Authority.—All certificates authorized by this section shall be granted or endorsed by the state board of educational examiners in accordance with the provisions herein and regulations established in conformity herewith. Such regulations shall be formulated by the state board of educational examiners and approved by the state board of education before becoming operative.

Essential features.

2. Essential Features.—All essential features of these certificates, including academic and professional preparation, duration, jurisdiction, terms, and grades and credits (if certificates are granted wholly or in part upon the same), shall be placed upon, or attached to and made a part of, standard and limited certificates recognized in articulation, or granted under the provision of this section.

Examinations.

3. Examinations.—Standard and limited certificates described herein may be granted upon examination to candidates who present satisfactory evidence of having the minimum academic, professional and other prerequisites therefor, as prescribed by law at the time of taking the examination. The subjects in which said candidates shall be examined shall be determined by the state board of educational examiners with the approval of the state

HeinOnline -- 1923 373 1923

board of education and published from time to time in the regulations governing examinations. The state board of educational examiners shall have full authority to accept in lieu of examinations in particular subjects, credits made in standard normal schools, colleges and universities accredited by the board, provided the credits are extensive enough and the grades high enough to indicate adequate knowledge of the subject. When certificates authorized in this Section are granted upon examination, the questions shall be formulated, the examinations held, the papers graded and the certificates issued, or returns made, by the state board of educational examiners, or under regulations established by said board. The examinations shall be held at the same times and places as other Montana teachers' examinations.

Certificates granted on recognition of credentials.

4. Certificates Granted by Recognition of Credentials. When certificates authorized by this Section are granted upon the basis of credentials secured either within or without the state of Montana, such credentials shall be passed upon and evaluated by the state board of educational examiners and certificates issued only in conformity with the standards prescribed herein. Such credentials may consist of teachers' certificates from other states having standards equivalent to the certificates sought in Montana, or graduation diplomas and credits from standard institutions within or without the state. Certificates of health, character, American citizenship, success and experience shall be required, and any other data which, in the judgment of the board, shall be vital in the selection of capable teachers upon the basis of credentials presented. The state board of educational examiners shall give full credit and recognition to the diplomas and certificates meeting these standards and which are issued, or may have been issued heretofore, by the state higher educational institutions of Montana.

Suspension or revocation.

5. Suspension or Revocation.—The certificates prescribed in this Section shall be subject to suspension or revocation by the authority issuing the same on the same conditions and for the same causes as any other teachers' certificates issued in Montana.

Kinds of certificates recognized.

6. Kinds of Certificates Authorized for the Purpose of Articulating With Neighboring States. The kinds of certificates authorized under the provisions of this Section for the purpose of articulating with neighboring states, are as follows:

HeinOnline -- 1923 374 1923

A. Standard Certificates:

(1) Standard high school certificates which shall be classified as standard two-year, five-year and life high school certificates.—These certificates shall be valid in grades 7 to 12, inclusive, in the public schools of Montana. Candidates for these certificates must be graduates of a four-year accredited high school, or its equivalent, and in addition, they must be graduates of an accredited four-year standard college or university. A minimum of 15 semester credits in education (general psychology being a prerequisite) is also required of all candidates. A course in practice teaching should be included in the credits in education. Standard certificates.

For each type of standard high school certificate the prerequisites shall be the same except for the amount of successful teaching experience. The holder of the two year standard high school certificate shall be eligible for the five-year high school certificate after teaching successfully for fourteen months within the state during the life of the two-year certificate. The holder of a five-year standard high school certificate shall be eligible for the life standard high school certificate after teaching twenty-eight months successfully within the state, fourteen of which shall have been on the five-year standard high school certificate. In all cases the state board of educational examiners shall determine whether or not the experience has been successful. Short term certificates may not be displaced by long term certificates when teaching experience has been unsuccessful. Where doubt exists the board shall use its discretion in granting or renewing certificates. Two-year and five-year standard high school certificates are renewable once in the discretion of the state board of educational examiners. Requirements.

(2) Standard elementary certificates, which shall be classified as standard two-year, five-year and life elementary certificates.—These certificates shall be valid in grades 1 to 9, inclusive, in the public schools of Montana. Candidates for any standard elementary certificates must be graduates of a four-year accredited high school, or its equivalent, and, in addition, must have had two years of approved academic and professional preparation in an accredited institution of higher learning. A minimum of fifteen semester credits in education or professional study should be included in the preparation. Standard elementary certificates.

For each type of standard elementary certificate the prerequisites shall be the same except for the amount of Qualifications for.

HeinOnline -- 1923 375 1923

successful teaching experience. The holder of a two-year standard elementary certificate shall be eligible for a five-year standard elementary certificate after teaching successfully for fourteen months within the state during the life of the two-year certificate. After twenty-eight months of successful teaching experience within the state, fourteen months being during the life of the five-year certificate, the holder of a five-year standard elementary certificate shall be eligible for a life elementary certificate. Standard two-year and five-year elementary certificates are renewable once in the discretion of the state board of educational examiners. The state board of educational examiners shall in all cases determine whether or not experience has been successful and shall issue, renew, or withhold certificates according to the success or failure of the candidates.

Limited certificates.

B. Limited Certificates.—These certificates shall be granted upon satisfactory examination to persons meeting the minimum prerequisites stipulated in sub-section 7 and 8 below of this Section. The kinds of limited certificates authorized are:

Second grade certificates.

(a) Second grade, valid in grades one to eight inclusive, of the public schools of Montana for a period of two years. No experience is required. Candidates must be graduates of a four-year accredited high school, or have its equivalent, and, in addition thereto, have had twelve quarter credits of approved professional training obtained in residence at an institution of higher learning accredited by the state board of educational examiners. This certificate may be renewed once without examination, provided the holder fulfills the minimum prerequisites requirements prescribed by law and in effect at the time such renewal is made; and provided further, that the teaching experience of the candidate has been, in the judgment of the state board of educational examiners, successful.

First grade certificates.

(b) First grade, valid in grades one to eight inclusive, of the public schools of Montana for the period of five years. Candidates for this certificate must have had fourteen months of successful teaching experience. This certificate is renewable indefinitely provided the candidate meets the minimum academic and professional requirements established by law and in effect at the time each renewal is made, and by teaching successfully twenty-one months during the life of the original certificate and each renewed certificate. Successful experience shall

HeinOnline -- 1923 376 1923

be determined by the state board of educational examiners as in the issuance of other certificates.

General qualifications for limited certificates.

7. General Prerequisites Established for Limited Certificates and for Standard Elementary and High School Certificates.—None of these types of certificates shall be granted to any person who does not meet these prerequisites:

(a) Full citizenship.

(b) Minimum age of eighteen years.

(c) Satisfactory evidence of good moral character.

(d) Certificate of good health from a reputable physician.

Minimum requirements for limited certificates.

8. Minimum Academic and Professional Prerequisites for the Issuance of Any Limited Certificates.—The minimum academic and professional prerequisites for the issuance of any limited certificate described herein shall be as follows:

After Sept. 1, 1923.

(a) After September 1st, 1923, no limited certificate shall be issued to anyone who is not a graduate of a four-year accredited high school, or its equivalent, and who does not have in addition thereto, twelve quarter credit hours (eight semester hours) of approved professional training acquired in residence at an institution of higher learning accredited by the state board of educational examiners.

After Sept. 1, 1924.

(b) After September 1, 1924, candidates for limited certificates must be graduates of a four-year accredited high school, or its equivalent, and in addition thereto shall have had twenty-four quarter credits of approved academic and professional preparation acquired in residence at an accredited institution of higher learning.

After Sept. 1, 1925.

(c) After September 1st, 1925, candidates must be graduates of a four-year accredited high school, or its equivalent, and have had in addition one year of approved academic and professional preparation in residence at an accredited institution of higher learning.

After Sept. 1, 1926.

(d) After September 1st, 1926, candidates must be graduates of a four-year accredited high school, or its equivalent, and have had two years of approved academic and professional preparation (at least one-half of which shall have been obtained in residence) at an accredited institution of higher learning.

9. The holder of any standard certificate shall be eligible to hold any supervisory position in third class districts; and shall be eligible for administrative and supervisory positions in first and second class districts

HeinOnline -- 1923 377 1923

provided he shall have had the successful teaching experience prescribed in Section 982 of the Revised Codes of Montana, 1921.

Fees for certificates.

10. Fees and Appeal for Re-reading of Papers.—Applicants for standard and limited certificates described above, shall pay at the time examinations are taken or credentials submitted, the fee fixed for the particular certificate sought. Fees for such certificates shall be as follows:

Second and first grade limited certificates, one Dollar ($1.00) and three dollars ($3.00), respectively;

Standard elementary two-year, five-year and life, two dollars ($2.00) five dollars ($5.00), and ten dollars ($10.00), respectively;

Standard high school two-year, five-year and life, two dollars ($2.00), five dollars ($5.00) and ten dollars ($10.00), respectively;

Fee for re-reading papers.

The fee for re-reading of papers on appeal from any examination papers shall be two dollars.

When application is made for certificate by examination, the fees shall be paid to the county superintendent

Disposal of fees.

at the time of taking the examination, and said fee shall be forwarded by the county superintendent to the state department of public instruction to be deposited with the state treasurer in the state certificate fund. When a certificate is sought upon presentation of credentials in lieu of examination, the fee shall be paid directly to the state superintendent and the same deposited with the state treasurer in the state teachers' certificate fund. Fees for re-reading papers shall be placed in the same fund. No refunds will be made to those who fail to pass examinations, or who are lacking in the necessary prerequisites, credentials or vital data required by law;

Refunds.

nor shall any refund be made to persons whose credentials are unsatisfactory for the purpose of securing a certificate by endorsement. Persons failing in examination shall have the same right to appeal for re-reading of their papers as in the case of other Montana certificates and on the same conditions.

Registration of certificates.

11. Registration.—The holder of either a standard or limited certificate shall register the same in the county where he teaches not later than ten days after he begins to teach.

Definition of terms.

12. Definition of Terms.—The state board of educational examiners shall have full authority to define the terms "academic" "professional" and "equivalent" in

HeinOnline -- 1923 378 1923

the regulations to be issued in conformity with the provisions of this Section.

Section 9. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 10. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 132.

An Act Providing the Fees to Be Paid by Foreign Corporations for Filing a Certified Copy of Its Charter or Articles of Incorporation in the Office of the Secretary of State of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Fees of foreign corporations for filing articles.

Section 1. That every foreign corporation required by law to file in the office of the Secretary of State a certified copy of its charter or articles of incorporation shall pay to the Secretary of State for the filing thereof as follows:

Upon the proportion of its capital stock then or thereafter to be represented by its property and business in Montana at the rate of One Dollar ($1.00) per thousand dollars for the First One Hundred Thousand Dollars; at the rate of Eighty (80) Cents per thousand dollars for any additional from One Hundred Thousand to Two Hundred Fifty Thousand Dollars; at the rate of Sixty (60) Cents per thousand dollars for any additional from Two Hundred Fifty Thousand Dollars to Five Hundred Thousand Dollars; at the rate of Forty (40) Cents per thousand dollars for any additional from Five Hundred Thousand to One Million Dollars, and at the rate of Twenty (20) Cents per thousand dollars for any additional over One Million Dollars, provided, however, that no fee for filing shall be less than $50.00.

Annual reports.

Section 2. Every foreign corporation which shall hereafter file in the office of the Secretary of State a certified copy of its charter or articles of incorporation shall annually and between the first days of January and March of each year file in said office a report verified by the oath of its president, vice-president, or secretary, stating the proportion of its capital stock represented in the

HeinOnline -- 1923 379 1923

State of Montana by its property located and business transacted therein during the preceding year.

Certain proportions, how determined.

Section 3. In determining the proportion of capital stock employed in this state the same shall be computed by taking the gross business in dollars of the corporation in the state for the preceding year and adding the same to the full value in dollars of the property of the corporation located in the state and by taking the total gross business in dollars of the corporation, both within and without the state for the preceding year, and adding thereto the full value in dollars of the entire property of the corporation both within and without the state and by then dividing the total value in dollars of the business and property in the state by the total value in dollars of all the business and property of the corporation, the quotient thus obtained to be taken as the percentage of the capital stock represented by the business and property within the state. The Secretary of State may demand as a condition to the filing of such report a statement verified by the president, vice-president, or secretary of such foreign corporation, showing in detail the information required for the making of the calculation aforesaid, which statement when so demanded shall be attached to and filed with such report.

Verification.

Additional fee when required.

Section 4. Whenever such report shall show a greater proportion of the capital stock of such foreign corporation represented by its property and business in Montana than that upon which the fee for filing was based, such foreign corporation at the time of filing such report, shall pay such additional fee as it would have been required to pay for filing if such fee has been calculated on the basis of the proportion of the capital stock represented by its business and property in Montana as shown by such report; Provided, that all foreign corporations which have entered Montana for the transaction of business subsequent to February 27, 1915, up to the time when this law shall become effective, shall pay only upon the actual amount of increase in proportion of capital employed in Montana as shown by this report at the rates set out above, but this law shall in no way be considered to authorize collection of fees upon capital stock of such corporations as are in this provision referred to whereby such collection would cause such corporation or corporations to pay upon its entire proportion of capital employed in Montana at the schedule of rates set forth in Section One of this Act.

HeinOnline -- 1923 380 1923

Entry of foreign corporations into state forbidden when.

Section 5. That from and after the passage of this Act no foreign corporation shall be permitted to enter the State of Montana for the transaction of business, where such foreign corporation has capital stock of no par value.

Penalty for failure or false report.

Section 6. If any foreign corporation shall fail to file such Annual Report, or to pay such additional fee or shall file a false report, it shall forfeit its right to do business in this State.

Section 7. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 8. This Act shall be in full force and effect upon its passage and approval.

Approved March 8, 1923.

CHAPTER 133

An Act to Amend Sections 640, 641, 644, 645, 651 and 652 And to Repeal Sections 642 and 643 of the Revised Codes of Montana of 1921, All Relating to Primary Elections.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 640, 641, 645, 651 and 652 of the Revised Codes of Montana of 1921 be, and the same are hereby amended so as to read as follows:

Petitions for nominations to be filed.

"Section 640. PETITIONS FOR NOMINATION TO BE FILED. Any person who shall desire to become a candidate for nomination to any office under this law shall send by registered mail, or otherwise, to the Secretary of State, county clerk, or city clerk, a petition for nomination, signed by himself, accompanied by the filing fee hereinafter provided for, and such petition shall be filed and shall be conclusive evidence for the purpose of this law that such elector has been a candidate for nomination by his party. All nominating petitions pertaining to congressional, state, or district offices to be voted for in more than one county, and for judges of the District Court shall be filed in the office of the Secretary of State; for county and district offices, to be voted for in one county only, and for township and precinct offices, shall be filed in the office of the county clerk ;and for all city offices in the office of the City Clerk:

Effect of petition.

HeinOnline -- 1923 381 1923

Fees for filing.

The fees required to be paid for filing such petitions shall be as follows:

For any office with a salary attached of One Thousand ($1000.00) Dollars or less per annum, Ten ($10.00) Dollars; except candidates for the State Senate and House of Representatives shall be Fifteen ($15.00) Dollars.

For any office with a salary attached of more than One Thousand ($1000.00) Dollars per annum, one per cent (1%) of total amount of annual salary;

For the office of County Commissioner in counties of the first class Forty ($40.00) Dollars; in counties of the second class, Thirty-five ($35.00) Dollars; in counties of the third class, Thirty ($30.00) Dollars; in counties of the fourth class, Twenty-five ($25.00) Dollars; in all other classes of counties Ten ($10.00) Dollars.

For any office the compensation of which consists of fees instead of a salary, Five ($5.00) Dollars.

For state, county and precinct committeeman and delegates to national conventions no fees shall be required to be paid."

Form of petition.

"Section 641. FORM OF PETITION FOR NOMINATION. The petition for nomination required by the preceding section shall be substantially in the following form:

To.....(name and title of officer with whom petition is to be filed).....and to the members of the .....party and the electors of the..... (State or counties of.....comprising the District or County or City, as the case may be) in the State of Montana;

I.....reside at..... and my postoffice address is..... I am a candidate of the.....party for the nomination for the office of.....at the primary nominating election to be held in the.....(State of Montana or District, or County or City).....on the.....day of ....., 19....., and if I am nominated as the candidate of the.....party for such office I will accept the nomination and will not withdraw, and if I am elected I will qualify as such officer.

If I am nominated and elected I will, during my term of office (Here the candidate, in not exceeding one hundred words, may state any measure or principles he especially advocates, and the form in which he wishes it

HeinOnline -- 1923 382 1923

printed after his name on the nominating ballot, in not exceeding twelve words.)

.....

Signature of Candidate for Nomination.

Every such petition shall be signed as above by the elector seeking such nomination."

Register of candidates.

"Section 645. REGISTER OF CANDIDATES. The Secretary of State, County Clerk and City Clerk shall keep a book entitled "Register of Candidates of Nomination at the Primary Nominating Election," and shall enter thereon on different pages of the book for different political parties subject to the provisions of this law, the title of the office sought and the name and residence of each candidate for nomination at the primary election; the name of his political party; the date of receiving the petition for nomination signed by the candidate; the words he wishes printed after his name on the nominating ballot, if any; and such other information as may aid him in arranging his official ballot for said primary nominating election. Immediately after the canvass of votes cast at a primary nominating election is completed, the county clerk, Secretary of State or city clerk, as the case may be, shall enter in his book marked "Register of Nominations," the date of such entry, the name of each candidate nominated, the office for which he is nominated, and the name of the party making the nomination."

Ballots arrangement and printing.

"Section 651. BALLOTS HOW ARRANGED, PRINTED AND VOTED. At all primary elections there shall be a ballot made up of the several party tickets herein provided for, each of which shall be printed on a separate sheet of white paper, all of which shall be of the same size, and all shall be securely fastened together at the top and folded, provided that there shall be as many separate tickets as there are parties entitled to participate in said primary election.

Number of tickets to be printed.

The total number of tickets to be printed for each party for all voting precincts in each township (or if for a city election in a city having wards, for all voting precincts in each ward, or if for a city election in a city without wards, for all the voting precincts in the entire city) shall be divided into lots of twenty-five (25), such lots for each party ticket being numbered consecutively from one up. The names of all candidates for each party for each office shall be arranged by their surnames in alphabetical order, and the tickets in lot 1, for each party, shall be

Arrangement of names.

HeinOnline -- 1923 383 1923

printed in such order. For lot 2, the first name appearing as a candidate for each office in lot 1, shall be placed at the bottom of the list of candidates for such office so that the names appearing first for all offices in lot 1 shall be placed last in lot 2, and the names appearing second for each office in lot 1 shall appear first in lot 2, and this method shall be followed for each lot in the order of their lot numbers until the names have been rotated through the total number of tickets for each party. The tickets belonging to each lot of each party, as they are printed, shall be kept separate from those in the other lots. The ballots for each precinct shall be made up in the following manner: For the first ballot one party ticket shall be taken from lot 1 of each party, for the second ballot one party ticket shall be taken from lot 2 of each party, and so continuing until the proper number of ballots are made up for each precinct, the intention being that in each precinct each ballot shall be made up of party tickets on which the names of candidates for each office shall be arranged in a different order than on the tickets making up the ballot immediately following.

Ballots, how made up.

Names written in, for whom counted.

If any elector write upon his ticket the name of any person who is a candidate for the same office upon some other ticket than that upon which his name is so written, this ballot shall be counted for such person only as a candidate of the party upon whose ticket his name is written, and in no case shall be counted for such person as a candidate upon any other ticket. In case any person is nominated as provided in this act, upon more than one ticket, he shall forthwith file with the secretary of state, county clerk or city clerk, a written declaration indicating the party designation under which his name is to be printed on the official ballot for the primary election, failing in which his name shall be printed upon the party ticket for which his nominating petition shall have been first filed, and no candidate shall have his name printed on more than one ticket. The ballots with the endorsements shall be printed on white paper in substantially the forms of the Australian Ballot, used in general elections, except that the candidates of each party shall be printed on a separate ticket or sheet. After preparing his ballot the elector shall detach the same from the remaining tickets and fold it so that its face will be concealed and the official stamp thereon seen. The remaining tickets attached

Printing ballots.

Voting.

HeinOnline -- 1923 384 1923

together shall be folded in like manner by the elector who shall thereupon, without leaving the polling place, vote the marked ballot forthwith, and deposit the remaining tickets in the separate ballot box to be marked and designated as the blank ballot box. Immediately after the canvass, the judges of election shall without examination destroy the tickets deposited in the blank ballot box."

Official and sample ballots.

"Section 652. OFFICIAL AND SAMPLE BALLOTS—PREPARATION AND NUMBER. There shall be printed and furnished for each election precinct a number of ballots equal to the number of voters registered in such voting precinct and entitled to vote at such primary nominating election.

If any political party shall desire sample ballots its political committee may order the same from the county clerk or city clerk who shall collect from such committee an amount sufficient to pay the cost of printing such sample ballots, and such sample ballots after being printed, shall, on the written order of the Clerk, be delivered to the committee ordering the same, but no such sample ballots shall be printed except on the order of the county or city clerk. The sample ballots shall be duplicate impressions of the official ballots to be voted, but in no case shall they be white, nor shall said sample ballots have perforated stubs, nor shall they have the same margin either at the top or sides or bottom as the official ballots have, or nearer thereto than twelve points, and the names of the candidates on the tickets composing the same shall not be rotated as required for the official ballots, but shall be impressions of the tickets belonging to lot 1 of each party."

Section 2. That Section 644 of the Revised Codes of Montana of 1921, be and the same is hereby amended to read as follows:

Time and place for filing nominating petitions.

"Section 644. TIME FOR FILING PETITIONS FOR NOMINATIONS. All petitions for nomination under this act for offices to be filed by the State at large or by any district consisting of more than one County, and nominating petitions for judges of district courts in districts consisting of a single county, shall be filed in the office of the Secretary of State not less than forty days before the date of the primary nominating election; and for other offices to be voted for in only one county, or district or city, every such petition shall be filed with

HeinOnline -- 1923 385 1923

the county clerk or city clerk as the case may be, not less than thirty days before the date of the primary nominating election."

Section 3. That Sections 642 and 643 of the Revised Codes of Montana of 1921 be, and the same are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 134.

An Act to Submit to the Qualified Electors of the State of Montana an Amendment to the Constitution of the State of Montana, Adding Thereto a New Article, Providing for the Acceptance and Administration by the State of Gifts, Donations, Grants and Legacies for the Creation of a State Permanent Revenue Fund, for the Creation of a State Permanent School Fund, for the Creation of a Permanent Revenue Fund for the University of Montana, and for the Benefit of Other Useful, Benevolent and Worthy Objects; and Authorizing the State to Administer Other Funds Together With Those Hereinbefore Indicated.

Be it enacted by the Legislative Assembly of the State of Montana:

Constitutional amendment to be submitted to voters.

Section 1. That the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana for their approval or rejection at the general election to be held in November, 1924.

Contents of Article 21.

Section 2. That the Constitution of the State of Montana be amended and the same is hereby amended, by adding thereto a new Article to be known and designated as Article Twenty-One (21), reading and being as follows:

Article XXI.

State authorized to accept gifts for creation of certain state funds.

Section 1. (of Article 21). The State of Montana does hereby agree and covenant to accept from any natural person, or persons, from inside or outside the State, gifts, donations, grants and legacies in any amount or value not less than Two hundred fifty ($250.00) Dollars each, for the creation of a State Permanent Revenue Fund,

HeinOnline -- 1923 386 1923

for the creation of a State Permanent School Fund, for the creation of a Permanent Revenue Fund for the University of Montana, and for the benefit of scientific, educational, benevolent and charitable work, subject, however, to all the provisions and limitations of this article.

Gifts to be held in trust.

Section 2 (of Article 21). The State further agrees and covenants to hold in trust all such contributions (gifts, donations, grants, and legacies), to administer the same perpetually, and to apply the net earnings thereof as therein directed, subject, however, to the provisions and limitations of this act.

Disposal of contributions.

Section 3 (of Article 21). The original amounts of all contributions for the State Permanent Revenue Fund, for the State Permanent School Fund, and for the Permanent Revenue Fund for the University of Montana, shall be added to such funds respectively and become inseparable and inviolable parts thereof. Contributions for other objects may contain a provision to the effect that the net earnings thereof, or part of the net earnings, shall be added to the principal for a certain length of time, or until it has reached a certain amount, or until the happening of a certain event, but such contingent event shall not be more remote than permitted by the laws affecting perpetuities; but no contribution containing such provisions as to accumulation shall be accepted by the State until it has been approved by the supervisory board hereinafter constituted, which board shall have power to reject any such contribution that it may deem unwise.

Record of gifts.

Section 4 (of Article 21). The State Treasurer shall keep a permanent record of all such gifts, donations, grants and legacies, showing the names of the givers, the purpose of the contribution, and other essential facts relating thereto. A duplicate of this record shall be kept by the Secretary of State. These records shall be preserved perpetually as a lasting memorial to the givers and their interest in society. The Legislative Assembly shall from time to time make provision for suitable publicity concerning these benefactors of their fellowmen.

Funds, how administered.

Section 5 (of Article 21.) The same State Board and officers that have charge of the investment and administration of the Public School Fund of the State shall have charge of the investment and administration of all the funds administered under this article. All these funds

HeinOnline -- 1923 387 1923

shall be invested as one common fund to be known and designated as the Montana Trust and Legacy Fund. In case any contribution is in some other form than cash, such board shall convert it into cash as soon as practicable.

Montana trust and legacy fund.

Investment of funds.

Section 6 (of Article 21). All investments of these funds shall be safely and conservatively made. Preference shall be given to long term loans secured by first mortgages on town and city homes or on cultivated and producing farms in this State free from all prior liens and encumbrances, and also to Montana Bonds issued for educational purposes. All such loans and bonds shall be payable on the amortization plan. No loan in which the security is a mortgage shall exceed fifty per cent of the actual cash value of the real estate given as security. No farm loan shall be for a longer period than forty years, and no loan secured on residence property shall be for a longer period than twenty years. No loan secured on town or city property shall be made until the particular town or city and subdivision thereof in which it is located has been accepted and approved by the State Board, having charge of the investment, as permanently established, having an assured future and being in every way safe security for these investments. Investment may also be made in other safe interest bearing securities; provided, however, that no part of such funds shall ever be invested in obligations of the State of Montana, except general fund warrants which will be paid within one year from the time of the investment. No discrimination shall ever be shown for or against any loan applicant; provided, however, that in passing on a loan or investment, consideration shall be given, not only to the ampleness of the security, but also the character and earning capacity of the applicant and to the purpose of the loan; and provided further that so long as the available funds are inadequate to meet the demand, preference shall be given to the smaller loans. The rate of interest shall always be a reasonable rate, considering the character of the loan or investment, but different rates may be charged for different classes of loans and investments.

Preference to be given farm loans.

Intent of act as to safety of loans.

Section 7 (of Article 21.) It is the meaning and intention of this Article that all investments of these funds shall be confined exclusively to safe loan investments, drawing a fixed rate of interest and being in aid of

HeinOnline -- 1923 388 1923

home making, farming and educational work, or otherwise conducive to the progress and well being of society. All long term investments shall be on the amortization plan. Further regulations and limitations concerning these investments shall be provided by law.

Liability of insurance companies.

Section 8 (of Article 21.) Whenever the security given for a loan is liable to damage or destruction by fire, the insurance company accepting the risk shall be absolutely liable to the State for the full amount of the policy, and the policy itself shall specifically recite such full liability. The State may itself provide for insurance on any property constituting security for its loans.

Legislature may regulate.

Section 9 (of Article 21). The Legislative Assembly may provide other and additional ways and means for beginning or increasing any of the funds created or authorized by this Article.

Acceptance of certain other funds for investment.

Section 10 (of Article 21). The State of Montana shall accept for investment and administration together with the aforesaid funds constituting the Montana Trust and Legacy Fund, but as separable parts thereof, sinking funds, permanent funds, and cumulative funds belonging to the State and its political subdivisions, and also other funds designated by the Legislative Assembly, when requested to do so by the authorities having the care and custody of such funds. All such funds and the accrued interest, less the state compensation hereinafter fixed, shall be repaid when due. The provisions of this section shall not apply to the Public School Fund of the State, which school fund shall be administered separately as already prescribed by the constitution.

Compensation to state for administration of funds.

Section 11 (of Article 21). The State shall be entitled to receive as compensation for the administration of all the funds administered under this act one twentieth (1-20) of all the interest collected thereon each year. On the last day of December of each year, the State Treasurer shall transfer to the State General Fund such one twentieth (1-20) of all the interest collected during the year, less all the losses ascertained during the year, which losses shall be deducted from the one twentieth constituting the compensation of the State. The balance of the interest collected shall be the net earnings and shall be credited pro rata to each and every fund constituting the Montana Trust and Legacy Fund that was in the keeping of the State on January 1st of that year, based

HeinOnline -- 1923 389 1923

on the total thereof on that date, and shall be added to each fund, or held available for the beneficiaries as the case may be. Sums due beneficiaries shall be paid out during the ensuing month of January, as far as practicable.

Disposal of net earnings of permanent revenue fund.

Section 12 (of Article 21). All the net earnings accruing to the State Permanent Revenue Fund shall annually be added thereto until it has reached the sum of One Hundred Million Dollars ($500,000,000.00). Thereafter only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths of the net earnings shall be used for the general expenses of the State.

Net earnings state permanent school funds.

Section 13, (of Article 21) All the net earnings accruing to the State Permanent School Fund shall annually be added thereto until it has reached the sum of Five Hundred Million Dollars ($500,000,000.00). Thereafter only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths shall annually be apportioned to the school districts of the State on the basis of the aggregate actual school attendance in each district during the preceding school or calendar year by persons between the ages of six and eighteen years, and shall be used exclusively for educational purposes, subject to such regulations and limitations as may be prescribed by law.

Net earnings permanent revenue fund for University.

Section 14, (of Article 21) All the net earnings accruing to the Permanent Revenue Fund for the University of Montana shall annually be added thereto until it has reached the sum of One Hundred Million Dollars ($100,000,000.00). Thereafter only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths shall be apportioned to all the educational institutions then comprising the University of Montana, on the basis of the aggregate actual attendance in each institution during the preceding school or calendar year, and may be used for all purposes properly connected with the work of these institutions, subject, however, to such regulations and limitations as may be prescribed by law.

Transfer of funds when.

Section 15 (of Article 21). Whenever the purpose for which a certain contribution was made has been accomplished, or can no longer be ascertained or followed, then the total amount of such fund shall be transferred

HeinOnline -- 1923 390 1923

to the State Permanent School Fund and become a permanent and inviolable part thereof. All contributions without a specified purpose shall be credited to the State Permanent School Fund.

Legislature may provide for use of funds when.

Section 16 (of Article 21). Should the time ever come when any of the three aforesaid permanent funds become so large that no further increase is necessary or desirable, then, in such case, the Legislative Assembly shall have power to provide for the use of all of the net income from such fund for the purpose for which it was created, or it may use the one twentieth of the annual net income which was to be added to the fund itself for the creation of other permanent revenue funds, or for any other public purpose that it may deem wise; provided, however, that none of the foregoing provisions of this section shall apply to any of these funds until it has reached the specific amount fixed by this Article.

Supreme court to supervise administration.

Section 17 (of Article 21). The Justices of the Supreme Court of the State of Montana are hereby made and constituted a supervisory board over the entire administration of all the funds created or authorized by this article and the income therefrom. During January of each year, this board shall review the administration for the preceding year. It shall decide all uncertain or disputed points arising in the administration of the funds whenever requested to do so by a beneficiary, by a State Official charged with some part of the administration of the fund, or any other interested party; and it may do so upon its own initiative. It shall be the duty of the supervisory board to do and perform all acts and things that it may deem necessary in order to cause the board and officers having direct charge of these funds to administer the same carefully and wisely in full compliance with the provisions of this article and such further legislation as may be enacted relating thereto. The Clerk of the Supreme Court shall be Ex-Officio Clerk of this Supervisory Board.

Clerk of board.

Supplementary legislation.

Section 18 (of Article 21). The Legislative Assembly shall from time to time enact such further legislation as it may deem necessary to carry into effect the provisions of this article.

Ballots.

Section 3. Separate official ballots shall be provided at the general election to be held in November, 1924, which shall have printed thereon all of Article Twenty-

HeinOnline -- 1923 391 1923

one (21) of the Constitution of the State of Montana as proposed by this act. There shall also be printed on said official ballots, below the said article, squares and the words as follows:

☐ For the foregoing amendment to the Constitution.

☐ Against the foregoing amendment to the Constitution.

Each elector who approves this amendment shall mark an X in the first square above printed, and each elector who rejects it shall mark an X in the second square.

Voting.

Canvass of votes.

Section 4. The votes cast for and against this proposed amendment shall be canvassed, determined and declared as provided by the laws of the State of Montana.

Section 5. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 6. This act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 135.

An Act to Amend Sections 5228 and 5229 of the Revised Codes of Montana of 1921, Relating to the Area Embraced in Special Improvement Districts, and to Protests Against Such Proposed Work.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5228 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

Cost of improvement chargeable against extended district, when.

"Section 5228. Charges of Cost of Improvement upon Extended District not Fronting on Street Improved. Whenever the contemplated work or improvement, in the opinion of the city council, is of more than local or ordinary public benefit, or whenever, according to estimates furnished by the city engineer, the total estimated costs and expenses thereof would exceed one half the total assessed value of the lots and lands assessed, if assessed upon the lots or lands fronting upon said proposed work or improvement, according to the valuation fixed by the last assessment roll whereon it was assessed for taxes for

HeinOnline -- 1923 392 1923

municipal purposes, the city council may make the expense of such work or improvement chargeable upon an extended district, and which may include other lots not fronting on the improvement, and which the said city council shall, in its resolution of intention, declare to be the district benefited by said work or improvements, and to be assessed to pay the costs and expenses thereof; provided such extended district shall not include any property situate more than one thousand (1000) feet from the contemplated work or proposed improvement."

Proviso.

Section 2. That Section 5229 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

"Section 5229. Protests against Proposed Work. At any time within fifteen days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for said work may make written protest against the proposed work, or against the extent or creation of the district to be assessed, or both. Such protest must be in writing, and be delivered to the said clerk of the city council, who shall indorse thereon the date of its receipt by him. At the next regular meeting of the city council after the expiration of the time within which said protest may be so made, the city council shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive; provided, however, that when the protest is against the proposed work, and the cost thereof is to be assessed upon the property fronting thereon, and the city council finds that such protest is made by the owners of forty per cent of the property fronting on the proposed work, or when the protest is against the proposed work, and the cost thereof is to be assessed upon the property within an extended district, and the city council finds that such protest is made by the owners of more than forty per cent of the area of the property to be assessed for said improvements, no further proceedings shall be taken for a period of six months from the date when said protest was received by the said clerk of the city council; except in case the improvements are the construction of sanitary sewers, when the said protest may be overruled by an affirmative vote of a majority of the members of the city council; unless such protest is made by the owners of more than sixty per cent of the property affected as herein provided, in

Protests.

Hearing.

HeinOnline -- 1923 393 1923

which event the protest must be sustained as to the construction of such sanitary sewers.

Municipal property to be considered on protests.

In determining whether or not sufficient protests have been filed on a proposed district to prevent further proceedings therein, property owned by a county, city, or town shall be considered the same as other property in the district. The city council may adjourn said hearing from time to time."

Section 3. This act shall take effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 136.

An Act Authorizing Cities and Towns to Regulate and License Soft Drink Establishments and Pool and Billiard Halls, and to Authorize Said Cities and Towns to Limit the Number Thereof Allowed to do Business in Any Given City or Town.

Be it enacted by the Legislative Assembly of the State of Montana:

Cities and towns may license certain establishments.

Section 1. In addition to the other powers vested in city governments the city or town council of any city or town shall have power to make and pass necessary ordinances providing for the licensing and regulation of soft drink establishments and all pool and billiard halls; said city and town council shall have power to regulate and limit the number of such licenses issued and to provide by ordinance that the total number of such licenses may not exceed the number fixed by the city or town council by ordinance.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 137.

An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to the Constitution of the State of Montana by Adding Thereto an Article to be Known as Article XXII,

HeinOnline -- 1923 394 1923

Providing for the Payment of Adjusted Compensation to Bona Fide Residents of the State of Montana who Served on Active Duty in the Army, Navy or Marine Corps of the United States in the World War and to Such of Said Persons who Being Citizens of the United States Served in the Naval, Military or Air Forces of Any of the Governments Associated With the United States During Said War, and Authorizing the Incurring of an Indebtedness; Authorizing the Issuing of Bonds; Providing for the Levy of a Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Constitutional amendment authorized.

Section 1. That the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the general election to be held in November, 1924.

Article XXII.

Section 2. That the Constitution of the State of Montana be and the same is hereby amended by adding thereto an article to be known as Article XXII and to read as follows:

"Article XXII. Section 1. In order to promote the spirit of patriotism and loyalty, in testimony of the gratitude of the State of Montana, and in recognition of the splendid services of Montana men in the war between the United States and the German Empire and its allies, there shall be paid to each person who was regularly called, enlisted, drafted, inducted or commissioned and who served on active duty in the Army, Navy or Marine Corps of the United States between the sixth day of April, Nineteen Hundred and Seventeen and the Eleventh Day of November, Nineteen Hundred Eighteen for a period longer than two months; and to each person who, being a citizen of the United States at the time of entry therein, served on active duty in the naval, military or air forces of any of the governments associated with the United States during the war with the central allied powers between the sixth day of April, Nineteen Hundred Seventeen and the eleventh day of November, Nineteen Hundred Eighteen, for a period longer than two months; and at the time of his call, enlistment, induction, commission or service, was a bona fide resident of the State of Montana, the sum of Ten Dollars ($10.00) for each month or major fraction thereof that such person was in active service during said war, whether before or after November 11, 1918, not to exceed, however, a total

Bonus to whom paid.

Amount of bonus.

HeinOnline -- 1923 395 1923

Who not entitled to.

sum of Two Hundred Dollars ($200.00); provided, that persons who have received extra compensation from any other state or nation other than the United States for such active service shall not be entitled to compensation under this article unless the amount of compensation so received is less than they would be entitled to hereunder, in which event they shall receive the difference between the compensation allowable under this article and the extra compensation already received from such other state or nation, provided, further, that persons who have received greater compensation than the regular pay of the Army, Navy, or Marine Corps and commutation for quarters and subsistence, shall not be entitled to receive compensation under this article unless the amount of the extra compensation so received is less than they would be entitled to hereunder, in which event they shall receive the difference between the compensation allowable under this article and such extra compensation. In case of the death of any such person while in such service an equal amount shall be paid to his surviving widow, if not remarried the time compensation is requested, or in case he left no widow and left children, then to his surviving children, or in the event he left no widow or children, then to his surviving parent or parents. Persons of the female sex, or their surviving children or parents, who are in all other respects within the terms of this article, shall be entitled to compensation thereunder.

Heirs to receive when.

"Person" defined.

"Section 2. The word "person" as used in Section 1 of this article, shall not include persons who, during the period of their service, refused on conscientious, political or other grounds, to subject themselves to full military discipline or unqualified service, or who while in such service, were separated therefrom under circumstances amounting to a dishonorable discharge and who have not subsequently been officially restored to an honorable status, and such person shall not be entitled to the benefits of this article.

Disbursements, how made.

Certificate.

"Section 3. All disbursements required by this article for compensation shall be made upon the presentation of a certificate upon a form to be prescribed by the State Auditor, which certificate shall be duly verified by the claimant under oath and shall set forth the name, residence at the time of entry into the service, date of enlistment, induction or commission, date of discharge or release from active service, if the claimant is not on active duty,

HeinOnline -- 1923 396 1923

a statement that the claimant during the period for which compensation is allowed did not refuse to subject himself to full military discipline and unqualified service and that he has not been separated from the service under circumstances amounting to a dishonorable discharge, and such further information as the State Auditor may require. Such certificate shall be presented to the State Auditor or his representative together with an honorable discharge or release from active service, or in case of its loss a properly authenticated record of service, or in the event that claimant is still in the service a properly authenticated record of all active service performed by claimant, or if the same be presented by the widow, child or parents of a deceased veteran, then with the proper evidence of death, together with a properly authenticated record of service, and the State Auditor shall endorse upon such discharge, release or record of active service the fact that it was made the basis of the application, and shall return such discharge or release or record of active service to the claimant and shall forthwith draw his warrant in the name of the claimant upon the Veteran's Compensation Fund for an amount equal to Ten Dollars ($10.00) for each and every month of active service, or major fraction thereof, subsequent to the sixth day of April, Nineteen Hundred Seventeen, not exceeding however a total of Two Hundred Dollars ($200.00), and the State Treasurer shall pay such warrants from the Veterans' Compensation Fund.

Discharge.

In cases where application for compensation is made by the widow, children or parents of a deceased veteran, such person shall furnish the same information as though the application were made by the deceased veteran, and the State Auditor shall prepare an appropriate form of certificate to cover such cases. Compensation allowed to the children of deceased veterans shall be paid to the guardians of such children, which guardian if appointed by the courts of this state, shall serve without compensation and in the discretion of the court without bond, and it shall be the duty of every county attorney in this state to appear in the courts or render any other necessary legal assistance in behalf of such children in so far as the provisions of this article are concerned, without compensation and no public officer shall collect any fees in any proceeding brought in behalf of such children to secure compensation under this article.

Application by widow etc.

Guardians to receive when.

HeinOnline -- 1923 397 1923

Prevention of fraud.

The State Auditor is empowered to make such additional reasonable requirements from applicants as are necessary to prevent fraud or the payment of compensation to persons not entitled thereto.

Certificate furnished free.

"Section 4. The State Auditor shall furnish free of charge, upon application therefor, the necessary form of certificate to all persons entitled thereto, and may establish at different points within the State of Montana offices at which there shall be kept on file for the use of persons covered by this article a sufficient number of forms of certificate so that there may be no delay in the payment of this compensation. The State Auditor may

County officers may act for state auditor.

authorize the county auditor, or county clerk, or both, of any county of the state to act for him in receiving applications under the provisions of this article, and shall furnish such person with the proper certificates to enable him to accept such application. The State Auditor is hereby authorized and directed to procure such printing and office supplies and equipment, and to employ such persons as may be necessary in order to properly carry out the provisions of this article, and all expenses incurred by him in the administration of this article shall be paid by warrants drawn upon the Veterans' Compensation Fund.

Duty of adjutant general.

The Adjutant General shall advise with and assist the State Auditor in the performance of the duties of the Auditor under this article.

Bonds to be issued.

"Section 5. For the purpose of providing means for the payment of compensation hereunder and for paying the expenses of administration, the State Board of Examiners of the State of Montana is hereby authorized, empowered and directed to issue, from time to time, as may be required for the purpose of this article, bonds of, and in the name of, the State of Montana, to and in the amount of the sum of Four Million Five Hundred Thou-

Amount.

sand Dollars ($4,500,000.00) in excess of the constitutional limitation of indebtedness of the State of Montana, and over and above any bonded indebtedness of said state heretofore created or incurred for which said state is now obligated. The bonds provided for in this article

Denomination.

shall be issued in denomination of One Thousand Dollars ($1,000.00) each, and shall bear interest at a rate not exceeding five and one-half per cent (5½%) per annum,

Terms.

payable semi-annually on the first days of January and July of each year at the office of the State Treasurer of

HeinOnline -- 1923 398 1923

the State of Montana, or at some bank in a city outside of the State of Montana designated by the State Treasurer; such bonds shall be dated on the first day of January or the first day of July and shall become due and payable twenty (20) years from their date and be redeemable at the option of the State Board of Examiners at any time after ten (10) years from their date at any interest paying period. The bonds herein referred to shall be in such form as may be prescribed by the Attorney General and approved by the State Board of Examiners, and shall be signed by the members of said board and issued under the great seal of the state of Montana, and shall be registered in the office of the State Treasurer. Said bonds shall have interest coupons attached thereto covering the interest due semi-annually, which coupons shall be executed with facsimile signatures of all the members of the State Board of Examiners, and the signing of said coupons with said facsimile signature shall be recognized as sufficient execution of said coupons on behalf of the State of Montana.

Form.

Interest coupons.

The bonds provided for in this article shall be disposed of by the State Board of Examiners in such manner as they shall deem for the best interests of the State in carrying out the provisions of this article; provided, that no bond shall be disposed of for less than its par value.

Sale of bonds.

Bonds issued under the provisions of this article shall be a legal investment for any of the funds of the State.

Bonds legal investment.

"Section 6. The money arising from the sale of each issue of bonds shall be deposited in the State Treasury to the credit of a special fund to be known as the "Veterans' Compensation Fund" which shall be used for the payment of the compensation provided in this article and for paying the expenses of administration thereof. For the purpose of carrying out the provisions of this article there is hereby appropriated from the Veteran's Compensation Fund the sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) or so much thereof as may be necessary.

Veterans' compensation fund.

"Section 7. All payments or allowances made under this article shall be exempt from all taxation and from levy and sale on execution.

Exemptions.

"Section 8. That there shall be levied annually a tax not exceeding one mill on the dollar on all property in the State of Montana, subject to taxation, which said tax

Tax levy.

HeinOnline -- 1923 399 1923

when collected by the County Treasurers of the counties of the State of Montana shall be by them accounted for and paid into the State Treasury of the State of Montana and to be by the State Treasurer placed in and credited to a fund to be known as the "Veteran's Compensation Bond Retirement Fund," and which fund shall be used exclusively for the payment of the principal and interest accruing on said bonds.

Certain charges forbidden.

"Section 9. No charge made by any agent, notary public or attorney for a service in connection with obtaining the allowance as provided for by this article shall be recognized by the state and any person who for a consideration discounts or attempts to discount, or for a consideration advances money upon any certificate or certificates issued pursuant to the terms of this article, shall be guilty of a gross misdemeanor.

Penalty for false representations.

"Section 10. Any person, who with intent to defraud, subscribes to any false oath or makes any false representation, either in the execution of the certificates provided for by this article or who with intent to defraud, presents to the State Auditor, or to any other officer of the state, any certificate for the purpose of obtaining funds provided for by this article which do not in fact belong to such person, or make any false representation in connection with obtaining any funds under the terms of this article, shall be guilty of a felony.

Additional means may be provided by law.

"Section 11. The legislature may provide additional means for raising moneys for the payment of the interest and principal of said bonds and this act shall not be demed to provide an exclusive method for such payment."

Form of ballot.

Section 3. That separate official ballots be provided at the general election to be held in November, 1924, which shall have printed thereon the words

For the amendment to the Constitution relating to the payment of adjusted compensation to bona fide residents of the State of Montana who served on active duty in the Army, Navy, or Marine Corps of the United States in the world war, and to such of said persons who, being citizens of the United States, served in the Naval, Military or Air forces of any of the governments associated with the United States during said war; authorizing the incurring of an indebtedness; authorizing the issuing of bonds in an amount not to exceed Four Million Five Hun-

HeinOnline -- 1923 400 1923

dred Thousand Dollars ($4,500,000.00), and providing for the levy of a tax.

Against the amendment to the Constitution relating to the payment of adjusted compensation to bona fide residents of the State of Montana who served on active duty in the Army, Navy, or Marine Corps of the United States in the world war, and to such of said persons who, being citizens of the United States, served in the Naval, Military or Air forces of any of the governments associated with the United States during said war; authorizing the incurring of an indebtedness; authorizing the issuing of bonds in an amount not to exceed Four Million Five Hundred Thousand Dollars ($4,500,000.) and providing for the levy of a tax.

Each elector shall designate his preference by making an "X" before the proposition for which said elector desires to vote. Voting.

Section 4. That the votes cast for and against the amendment above proposed shall be canvassed and determined as provided by the general election laws of the State of Montana. Canvass of votes.

Section 5. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 6. This Act shall take effect upon its passage and approval.

Approved March 8, 1923.

CHAPTER 138.

An Act Abolishing the Office of State Parole Commissioner and Repealing Sections 12516 to 12518 Inclusive of the Revised Codes of Montana of 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The office of Parole Commissioner of the State of Montana is hereby abolished. Parole commissioner abolished.

Section 2. Sections 12516 to 12518 inclusive of the Revised Codes of Montana of 1921 are hereby repealed.

Section 3. This act shall take effect and be in full force from and after the 31st day of March, 1923.

Approved March 8, 1923.

HeinOnline -- 1923 401 1923

CHAPTER 139.

An Act Repealing Section 675 and 676, Revised Codes of Montana of 1921, Relating to the Printing of Campaign Books in the Primary Election for President.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That Sections 675 and 676, Revised Codes of Montana of 1921, be and the same are hereby repealed.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 140.

An Act to Amend Section 2726 of the Revised Codes of the State of Montana of 1921, Relating to Inspection of Boilers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2726 of the Revised Codes of the State of Montana of 1921 be and the same is hereby amended to read as follows:

What boilers excepted from act.

"Section 2726. Boilers used for heating purposes in private residences, low pressure cast iron sectional boilers carrying not to exceed fifteen pounds steam pressure, and locomotives used on railroads conducting a general business in hauling passengers and freight do not come

What included.

under the provisions of this article. But locomotives, commonly known as dinkey-engines, used in operating logging or mining railroads, or any similar work where such locomotives are owned, leased or operated by any individual, company, or corporation and are used in the business of such individual, company, or corporation, and not for general commercial purposes, shall be classed as traction engines and be subject to inspection as are other traction-engines, and the persons operating or firing such dinkey locomotives shall be required to hold traction licenses. Nor are locomotive engineers, save as herein provided, or persons operating any of the engines or boilers herein, exempted from the operation of this article, required to procure license from the inspectors. It

Notification of inspector.

shall be the duty of the owner and user of any traction

HeinOnline -- 1923 402 1923

engine or boiler on wheels to notify the inspector of the location of such boiler on or before the first day of June of each year. Any owner or user of such traction engine or boiler on wheels who shall fail to notify the inspector as herein provided shall be deemed guilty of a misdemeanor. Any person purchasing any steam boiler, whether traction or stationary boiler, shall be entitled to receive from the seller the certificates of inspection issued on such boiler and any person purchasing any steam-boiler, whether traction or stationary, not exempted by the provisions of this section, shall, within ten days after such purchase, report the fact of such purchase to the boiler inspector and notify such inspector where he intends to locate or operate said boiler. Any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor. All other steam-boilers and steam-engines, save as herein exempted, come under the provisions of this article and persons operating same are required to hold the proper grade of license."

Certificate of inspection.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 141.

An Act to Amend Section 1652 of the Revised Codes of Montana of 1921, Relating to Special Road Districts, Objects, Powers and Duties.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1652 of the Revised Codes of Montana of 1921, prescribing special road districts, objects, powers and duties, be and the same is hereby amended to read as follows:

"Section 1652. Every special road district No. ....., hereinafter organized and formed as herein provided, is hereby declared to be a corporate body, by the name and style of special road district of the county of ...., and state of Montana, and in that name may hold property, sue and be sued and make contracts. But nothing in this act shall be deemed or construed to extend to any special road district the right, power, or

Corporate capacity of special road districts.

HeinOnline -- 1923 403 1923

authority to issue bonds for any purpose whatsoever.

Purpose of districts.

The purpose of such road districts is to provide for the proper care, supervision, and maintenance of existing public highways within such road districts, it being the intention of this act that county commissioners and county surveyors, or special deputy county surveyors, as herein provided, shall continue to have and exercise the authority now provided by law for them, in laying out, establishing, and constructing new roads and bridges, and repairing such existing roads and bridges in the county as the county commissioners may at any time by resolution determine; provided, however, that the county commissioners of the county shall appoint a special deputy county surveyor to do the work of the county surveyor in all cases where the work can be done more economically and efficiently by said deputy. A copy of any such resolution by said commissioners, when passed, shall be by them sent to the secretaries of the districts through which such new road or road repairs may extend. Bridges over twelve feet in length shall be known as "county bridges," and may be constructed by the county. Bridges twelve feet and under shall be known as "district bridges," and be constructed by the special road district wherein the same is located; provided, that nothing in this act shall be construed to exempt any ditch company or owner from the duty of construction or maintenance of any bridges as now provided by law. Except as herein limited, all supervision, repair, and maintenance of roads and highways shall be done by and be a charge upon the special road district; provided, that when the county surveyor or special county surveyor, as provided in this section, may estimate any repair or construction work on any bridge or road to exceed One Thousand ($1000.00) Dollars per mile in cost in any one year, such repair or construction shall be a charge upon the county.

Special deputy county surveyor.

Resolution.

County and district bridges.

Cost, how defrayed.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

HeinOnline -- 1923 404 1923

CHAPTER 142.

An Act to Repeal Sections 3469, 3470, 3471 and 3477 Chapter 252 Revised Codes of Montana 1921 Known as the 'Coal Mining Code.'

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That Sections 3469, 3470, 3471 and 3477 Chapter 252 Revised Codes of Montana 1921, known as the Coal Mining Code, be and the same are hereby repealed.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 143.

An Act to Amend Section 8412 of the Revised Codes of Montana of 1921, Relating to Negotiable Instruments.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section No. 8412 of the Revised Codes of Montana be and the same is hereby amended so as to read as follows:

"Section 8412. An instrument which contains an order or promise to do any Act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which:

Certain provisions not to affect negotiable character of paper.

"1. Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or,

"2. Authorizes a confession of judgment if the instrument be not paid at maturity; or,

"3. Waives the benefit of any law intended for the advantage or protection of the obligor; or,

"4. Gives the holder an election to require something to be done in lieu of payment of money.

"5. An instrument otherwise negotiable in character is not affected by the fact that it was at the time of the execution or subsequently secured by mortgage on real or personal property.

"But nothing in this section shall validate any provision or stipulation otherwise illegal."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

HeinOnline -- 1923 405 1923

Section 3. This Act shall be in force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 144.

An Act to Amend Section 6445 of the Revised Codes of Montana of 1921, Relating to Reports of Co-operative Associations, and Providing for an Examination of the Accounts of Such Associations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6445 of the Revised Codes of Montana be and the same is hereby amended to read as follows:

"Section 6445. Each association formed under this Act shall make an annual report to the Commissioner of Agriculture on forms furnished by him, setting forth the name of such association, its principal place of business; a statement of its business operations during the period covered by such report, showing the amount of capital stock paid up and the number of stockholders of a stock association or the number of members and amount of membership fees received if a non-stock association; the total expenses of operations; the volume of business transacted; the amount of its indebtedness or liability; and its balance sheets."

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in force and effect after its passage and approval.

Reports of associations.

Approved March 8, 1923.

CHAPTER 145.

An Act to Amend Section 6236 of the Revised Codes of Montana of 1921 Relating to Official Bonds Required of Public Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6236 of the Revised Codes of Montana of 1921 be, and the same hereby is, amended to read as follows:

What bonds may be furnished.

"Section 6236. Whenever an official bond is required of any state, county, or city officer, such officer may

HeinOnline -- 1923 406 1923

furnish either a surety company bond, or a good and sufficient individual bond, executed and approved as required by law, or may furnish such other security as may be approved by the person, officer, or board authorized by law to examine and approve such official bond; provided, that where such officer shall furnish a surety company bond, the premium therefor shall be a proper charge against the general fund of the state, county, or city, as the case may be; provided, further, that the provisions of this section, making such premium a charge against the general fund of the state, county, city, town, or municipality shall not be construed to include any deputy, clerk or subordinate officer, where a bond is required to be furnished by the principal or body appointing the same."

Premium on bonds paid from gen. fund.

Appointees must pay premium when.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 146.

An Act to Amend Sections 2296, 2299, 2300, 2302, and 2303 of the Revised Codes of Montana of 1921, Relating to the Imposition and Method of Collecting Corporation License Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2299 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"2299. The license fee shall be computed upon the total net income of the corporation receive within each preceding calendar year ending December 31st; provided, that any corporation subject to this license fee may designate the last day of any month in the year as the day of the close of its fiscal year, and shall be entitled to have the license fee payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment, instead of upon the basis of the net income for the calendar year preceding the date of assessment, and it shall give notice to the State Board

License fee, how computed.

HeinOnline -- 1923 407 1923

of Equalization of the day it has thus designated as the close of its fiscal year, at any time not less than thirty days after the first day of January of the year in which its return would be filed if made upon the basis of the calendar year. Every corporation, subject to the license fee herein imposed, shall, for the year ending on the thirty-first day of December, or for its fiscal year selected under the provisions hereof, in each year hereafter beginning with the year 1923, render a true and accurate return of its annual net income in the manner and form to be prescribed by the State Board of Equalization, and containing such facts, data and information as are appropriate and in the opinion of the State Board of Equalization necessary to determine the correctness of the net income returned and to carry out the provisions of this Act. For the purpose of fixing the license fee to be paid for the year of 1923, every corporation, subject to the license fee herein imposed, shall make the required return as to its annual net income for the year 1922 on or before the first day of May, 1923. The return shall be sworn to by the president, vice-president or other principal officer, and by the treasurer or assistant treasurer, and shall be filed with the State Board of Equalization on or before the first day of March in each year, except the year 1923, when it shall be filed on or before the first day of May. In cases wherein receivers, trustees in bankruptcy, or assignees are operating the property or business of a corporation subject to the license fee imposed by this Act, such receiver, trustee, or assignee shall make the return in the same manner and form as such corporation is hereinbefore required to make return, and any license fee due on the basis of such returns made by the receiver, trustee, or assignee, shall be assessed and collected in the same manner as if assessed directly against the corporation of whose business or property they have custody and control, and shall be paid by such receiver, trustee, or assignee out of the property of the company in his hands, prior to the claims of creditors or stockholders."

Return of net income.

Affidavit and filing.

Trustees to make return how.

Section 2. That Section 2300 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"2300. All assessments shall be made by the State Board of Equalization, and the several corporations shall be notified of the amounts for which they are respectively liable, on or before the first day of June of each succes-

Assessments by board of equalization.

HeinOnline -- 1923 408 1923

sive year, and said assessments shall be paid on or before the fifteenth day of June; provided, that every corporation computing its license fee upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the fee due under its assessment within thirty days after the date upon which it is required to file its list or return of income for assessment. In cases of refusal or neglect to make such return, and in cases of erroneous, false, or fraudulent returns, the State Board of Equalization shall, upon the discovery thereof at any time within three years after said return is due, make a return upon information obtained as provided for in this Act, and the assessment made by the State Board of Equalization shall be paid by such corporation immediately upon notification of the amount of such assessment. If the license fee assessed thereunder shall not be paid by any corporation liable to pay the same under the provisions of this Act on or before the fifteenth day of June in any year, or within thirty days from the date on which the return of income is required to be made by the corporation, there shall be added the sum of ten per cent on the amount of the license fee unpaid, and interest at the rate of one per cent per month upon said license fee from the time the same becomes due, and the state shall have a lien for the payment of such license fee, penalty, and interest, which said lien shall attach to any and all property owned or possessed within the state by such corportion, which lien may be enforced in the same manner as liens are enforced at law."

Fee when payable.

Penalty.

Section 3. That Section 2302 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"2302. When the assessment shall be made as provided in this Act, the returns, together with any corrections thereof which may have been made by the State Board of Equalization, shall be filed in the office of said Board, and shall constitute public records and be open to inspection as such only upon the order of the governor, and under rules and regulations to be prescribed by the State Board of Equalization."

Filing returns and corrections.

Section 4. That Section 2303 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"2303. If the State Board of Equalization has reason to believe that the amount of any income returned is

Understatement of returns, proceedings.

HeinOnline -- 1923 409 1923

understated it shall give notice in writing of not less than five days to the corporation making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. Such corporations may furnish sworn testimony to prove any relevant fact bearing upon said return. The State Board of Equalization shall have power to prescribe forms for the returns and notices and such other regulations as may from time to time be found necessary for the purpose of carrying into effect the provisions of this Act. Jurisdiction is hereby conferred upon the District Court of the First Judicial District of the State of Montana, in and for the County of Lewis and Clark, to compel attendance of witnesses to testify before the State Board of Equalization, together with the production of books and such other testimony by appropriate process. Upon the determination by the State Board of Equalization of the amount of tax due from any and all corporations under the provisions of this Act, the State Board of Equalization shall certify the amount to the State Treasurer, at the same time mailing a notice of the amount of taxes thus determined to be due to the corporation making such return. Such corporation shall thereupon remit the amount of such tax to the State treasurer. When the State Board of Equalization has reason to believe that the business of any corporation is so conducted as either directly or indirectly to distort the true net income of the corporation and the net income properly attributable to this state, whether by the arbitrary shifting of income, through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one or another corporation carrying on business under a substantially common control, it may require the disclosure of such facts as it deems necessary for the proper computation of the entire net income and the net income properly attributable to this state, and in determining the same, the board shall have regard to the fair profits which would normally arise from the conduct of the business."

Forms.

Attendance of witnesses, how compelled.

Certification of tax.

Payment.

Disclosure of facts, how compelled.

Section 5. All Acts and parts of Acts in conflict herewith are hereby repealed, provided, however, that the amendment of the sections as amended by this Act shall not be construed to relieve or release any corporation from the payment of any license fee which such corpora-

Proviso.

HeinOnline -- 1923 410 1923

tion should have paid under the provisions of such sections before the amendment thereof by this Act, or of any penalty or interest which has heretofore or may hereafter attach to or become due thereon, but all such license fees, penalties and interest shall be fixed and determined under the provisions of such sections as amended and shall be paid and collected as though such sections had not been amended by this Act."

Section 6. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 147.

An Act Relating to Irrigation Districts Organized Under Chapter 153 Session Laws, 1921, and Amending and Re-enacting Sections 3956, 3960, 3965, 3968, 3969, 3970, 3973, 3974, 3975, 3990, 4014, of the Revised Codes of Montana, 1921, Which Relate to the Procedure for Organizing Said Irrigation Districts, and Examination and Report of the Public Service Commission Thereon, the Meeting of Directors of Said District and the Election of Officers of the Board, Providing for the Formulation of the Plan of Reclamation of Said Districts and the Final Report of the Public Service Commission Thereon, and Fixing the Form and Terms of the Bonds of Said Districts and Prescribing That the Same, When Certified by the Public Service Commission, Shall Be Legal Investments, Providing for the Delivery of Bonds of Said Districts to Contractors in Lieu of Sale, or for Sale of Said Bonds, Fixing the Time for Payment of Said Bonds and Prescribing the Lien Thereof, Providing for the Determination of the Amount of the Annual Assessment for Sinking Fund and Other Purposes, Providing for the Determination of the Annual Administrative Expenses and Levy and Collection Thereof, Fixing the Limitations on the Power of the Directors to Incur Indebtedness, Prescribing the Method for the Election of the Directors of Said District and for the Organization of Said Directors as a Board, and Authorizing the State Land Board to Sign Petitions for the Inclusion of State Lands in Irrigation Districts, Organized Under This Act and to Pay Assessments Therefor Out of Any Funds Belonging to Said Board Not Otherwise Appropriated.

HeinOnline -- 1923 411 1923

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3956 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Procedure for organizing irrigation district—Petition—Map—Bond—Examination and report. For the purpose of establishing and organizing an irrigation district hereunder, a petition in duplicate, signed by a majority in number of the holders of title, or evidence of title to lands susceptible of irrigation from the same general source, and by the same general system of works, such holders of title or evidence of title also representing a majority in acreage of said lands shall be filed with the clerk of the district court of the county in which the lands of the proposed district, or the greater portion thereof, are situate, accompanied by written instructions that one of the copies of the petition shall be forwarded to the Secretary of the Public Service Commission of Montana; provided, that if there are three or more counties embraced in the proposed district, and no one county embraces fifty per cent (50%) or more of said lands, then and in that event shall be filed in the county which embraces a greater portion of said lands than either one of the other two counties embraced in said proposed district. The county assessment roll or rolls for the year last preceding or the roll or rolls which have been last equalized at the time of the filing of the petition, or the certificate of the county clerk and recorder or the certificate of the register of the State Land Office shall be sufficient evidence of title for the purpose of this Act. Such petition shall set forth: (1) The name suggested for the proposed district; (2) A general description of the lands to be included in the proposed district; (3) The names of the holders of title or evidence of title to the lands in the proposed district ascertained in the manner hereinbefore mentioned; and if any holder is a non-resident of the county or counties in which the proposed district lies, the postoffice address of such non-resident owner, if known; (4) Generally the source from which the land in the proposed district is to be irrigated, the character of the works, water rights, canals and other property proposed to be acquired or constructed for irrigation purposes in the proposed district; (5) A statement that signers will pay any and all expenses incurred and any tax or taxes that may be levied against their lands for the purpose of paying the expense of organizing or

Petition for organization of districts.

Filing.

Contents.

HeinOnline -- 1923 412 1923

attempting to organize the proposed district, retiring any bonds that may be issued and the interest thereon; (6) A prayer that the lands embraced within the proposed district be organized as an irrigation district according to the provisions of this Act.

Map or plat.

The petition shall be accompanied with (1) a map or plat of the proposed district, and (2) a good and sufficient bond or undertaking to be approved by the district court or judge thereof of the county in which the petition is filed, equal in amount to the probable cost of organizing such district, to be filed under the provisions of this Act, to pay all costs in and about the proceeding preliminary to the organization of the district in the event that said organization shall not be effected.

Effect of errors.

Mere error or omission in the description of any land or in the names of any of the holders of title or evidence of title to lands, shall not operate to render invalid any proceedings hereunder or to deprive either the district court or the Commission of jurisdiction in the subject matter; provided, such misdescribed lands or misnamed persons shall not be included in said district.

Estimate of amount of preliminary expense.

It shall be the duty of the clerk of the district court in which such petition is filed to forward one copy of the petition, properly certified by him, to the Secretary of the Public Service Commission, who shall refer the same to its chief engineer, who shall advise the Commission of the estimated amount of his expenses in making a preliminary examination of the lands to be included in the proposed district and the source from which the lands are to be irrigated. The Secretary of the Commission shall thereupon advise the party or parties filing the petition for the proposed irrigation district, of the amount of the preliminary expenses of the engineer, which amount shall forthwith be paid to the Secretary of the Commission and by him turned over to the state treasurer to be credited to the Montana Irrigation Fund, hereby created.

Preliminary examination, how made.

Upon payment of such amount to the Secretary of the Commission, the engineer shall make a preliminary examination of the lands to be included in the proposed irrigation district, and the source from which the lands are to be irrigated, and shall make a report to the Commission as to the feasibility and advisability of the creation of such proposed district. The expenses of the engineer (not including his salary, but including the salaries of the necessary assistants) shall be paid out of the funds

HeinOnline -- 1923 413 1923

so deposited with the Secretary of the Commission and any surplus over and above said expenses shall be returned to the petitioners by a warrant drawn on the Montana Irrigation Fund. Upon the report of the engineer being filed with the Commission, showing an estimate of the amount of water available for irrigating the lands to be served thereby, the number of acres that can be irrigated by such water and the approximate cost per acre and annual maintenance cost, the Commission shall thereupon make a recommendation as to whether or not the estimated cost of the construction of acquisition of the irrigation works will be disproportionate to the benefits to be derived therefrom.

Recommendation of commission.

Report of state engineer.

The Commission is authorized to call upon and it is hereby made the duty of the State Engineer to make an investigation and report to said Commission, within not more than sixty (60) days after demand therefor, as to the available water supply and the right of the district to use the water as proposed, said report, or true copy thereof to be included in and made a part of the said preliminary report of the Commission.

Transmission to clerks of court.

The Secretary of the Commission shall thereupon transmit to the clerk of the district court in which the original petition was filed, a certified copy of such estimate and recommendations, under the seal of the Commission. The district court shall examine and consider the estimate and recommendation of the Commission before establishing any irrigation district, such estimate and recommendation being hereby made competent and relevant testimony. The petitioners shall have the right to subpoena and cross-examine any member of the Commission or its engineers at the initial and all subsequent hearings pertaining to the district; provided, however, that the provisions of this Act shall not apply to any irrigation district organized for the purpose of co-operating with the Reclamation Service of the United States government.

Court to examine.

Section 2. Section 3960 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Meeting of directors—Election secretary—Office. The directors shall meet within ten days after their appointment by the court, and shall organize as a board by the election of one of their number as president, to serve at the pleasure of the board; they shall also elect a secretary (who may or may not be a director). The compensation of the secretary and all other employes authorized under this Act shall be fixed by the board.

Meeting directors.

Organization.

Salary of secretary.

HeinOnline -- 1923 414 1923

Designation of office.

The board shall also at this meeting designate the place where the office of the board shall be established and maintained and its records kept, which place shall be in the county containing the major portion of the lands of the district; and such place shall not be changed except by resolution of the board, of which notice shall be given by at least one publication in some newspaper published, or of general circulation, in the county wherein the office of the district is located, and by posting in at least three public places in each division.

Section 3. Section 3965 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Plan of reclamation—Final report of commission. It shall be the duty of the Commission to assist and co-operate with the board of directors in the proceedings for the confirmation of any bond issue. Upon receipt of the copy of the district engineer's report, plans, estimates and maps, the Commission shall thereupon cause to be made by its own engineers such additional surveys and field investigations as may be necessary and approve or disapprove of all or any portion of such proposed plans, estimates and specifications, and shall have the authority to order such changes or alterations in such plans, estimates and specifications as may in its judgment be necessary; when the plans are complete to the satisfaction of the Commission and are formally adopted, they shall thereafter be known as "The Plan of Reclamation" a copy so certified shall be forwarded to the secretary of the board of directors and no change of major importance shall thereafter be made without an express order from the Commission in each case. The Commission shall submit a final report in writing upon such matters as it may deem essential and particularly upon the following points:

Additional surveys.

"Plan of reclamation".

Final report, contents.

(a) The sufficiency of the water supply available for the project and the right of the district to so much of the water as may be needed.

(b) The nature of the soil as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the proposed irrigation or storage system and of the specific project for which the bonds under consideration are desired or have been used, whether such system and project be constructed, projected or partially completed.

HeinOnline -- 1923 415 1923

(d) The reasonable market value of the water, water rights, canals, reservoirs, reservoir sites or other irrigation works owned by such district or to be acquired or constructed by it with the proceeds of such bonds.

(e) The reasonable market value of the land included within the boundaries of the district, both before and after the proposed irrigation plans have been completed.

(f) A discussion of the crops and value thereof as related to the estimated annual assessments for all purposes that may be levied against the district.

(g) Its conclusions, findings, and recommendations as to the entire feasibility of the district and a result of all investigations and advisability of carrying out the plans as adopted.

Report as to available water supply.

The Commission is authorized to call upon and it is hereby made the duty of the state engineer to make an investigation and report as to the available water supply and the right of the district to use the water as proposed, said report, or true copy thereof to be included in the final report of the Commission as outlined in paragraph (a) above, and to be furnished by the state engineer not later than sixty (60) days after demand therefor.

Filing.

The final report of the Commission shall be filed with the clerk of the district court in which the petition was originally filed, and one copy shall be sent to the secretary of the district board. Such report from the Public Service Commission shall be signed by the Chairman and the Secretary of the Commission and have affixed thereto the seal of the Commission, and shall be considered by the district court as competent and relevant testimony in subsequent hearings upon the confirmation of bonds proceedings. The order of confirmation shall not be made unless such report is favorable and shall have been filed with the clerk and considered by the court.

Court to consider.

Bonds, form and term.

Section 4. Section 3968 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Bonds—Form and terms—Legal investments. The bonds shall be numbered consecutively, commencing with number one and following in numerical order and may be either serial or straight maturity in nature. They shall be negotiable in form and payable in gold coin of the United States of the present standard weight and fineness, or in its equivalent; provided, however, that bonds shall be issued so as to include a sum sufficient to pay the first three years' interest to accrue on said bonds.

HeinOnline -- 1923 416 1923

Maturity of serial bonds.

Serial bonds may mature annually in such amounts that the total annual payments for principal plus interest shall be approximately equal; provided that the maturity dates shall spread over a term of not less than ten (10) nor more than thirty (30) years, and that the earliest maturity shall be not less than five (5) years and the latest maturity not more than forty (40) years from the date of issue.

Straight maturity bonds shall mature in forty (40) years or less as the board of directors may determine.

Interest.

The bonds shall bear interest at the rate of not to exceed six per centum (6%) per annum, payable semi-annually on the first days of January and July of each year, and the principal and interest shall be payable at the office of the county treasurer of the county in which the office of the district board is located. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than one thousand dollars, shall be signed by the president and secretary of the board of directors of the district, and the seal of the district shall be affixed thereto. The interest to become due on each bond shall be evidenced by interest coupons attached to such bond, which interest coupons shall bear the engraved facsimile signatures of the president and secretary of the board of directors of the district. Said bonds shall be registered in the office of the treasurer of the county in which the office of the board of directors of the district is situated, and in the office of the Public Service Commission of Montana, in books kept in their respective offices for that purpose, and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached and any other description proper for future identification of each bond, and such Comimssion shall endorse on each such bond a certificate substantially in the following form:

Execution.

Coupons.

Registry.

Certificate by public service commission.

The Public Service Commission of Montana hereby certifies that the within bond No. ..... of the .... Irrigation District, issue .....(First date) .... is in accordance with an act of the legislature of Montana, approved .....(insert date)..... a legal investment for trust funds, the funds of insurance companies, banks, both commercial and savings trust companies, bonding companies, permanent school funds of the State of Montana, and any funds which may be legally invested in county, municipal or school district

HeinOnline -- 1923 417 1923

bonds, and it may be deposited as security for the faithful performance of any contract or act whenever the bonds of any county, city or school district may be so deposited, it being entitled to such privilege by virtue of an examination of said district by the Public Service Commission of Montana in pursuance of said act. The within bond may also be used as security for the deposit of public money in the banks of said state.

PUBLIC SERVICE COMMISSION OF MONTANA.

.....

Chairman.

ATTEST: Official

.....

Secretary.

(SEAL)

Bonds to be legal investment.

All bonds certified in accordance with the terms of this Act shall be legal investments for all trust funds, and the funds of all insurance companies, banks, both commercial and savings, trust companies in the State of Montana, state permanent common school funds and other permanent state education, charitable and penal institution funds of the State of Montana; and whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts or municipalities in the State of Montana, such money or funds may be invested in said bonds of irrigation districts organized under, or subject to the provisions of this Act, and whenever bonds of cities, counties, school districts or municipalities may, by any law or hereafter enacted, be used as security for the performance of any act, said bonds of irrigation districts under the limitations of this Act provided may be so used.

Delivery of bonds to contractor, when.

Section 5. Section 3969 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Delivery of bonds to contractor in lieu of sale—Sale of bonds. The board may, with the consent and approval of the Commission, elect not to sell such bonds but to deliver the same to the person, persons or corporation contracting to construct the works in payment, thereof, and the board may provide in the contract therefor that the bonds shall be delivered to such contractor as the work progresses, or upon the completion thereof, provided, however, that no bonds shall be delivered to such contractor in excess of the amount of work

HeinOnline -- 1923 418 1923

actually done at the time of delivery, nor shall the total amount issued and delivered to such contractor be in excess of the amount due such contractor upon the completion of his contract, and no bonds shall be delivered or received in payment at less than face value unless approved by the Public Service Commission, providing none of such bonds shall be disposed of for less than 90% of their face value.

Sale of bonds.

If the board elects to sell the bonds which have been authorized by the confirmation order of the court, the board may sell the same from time to time, and in such quantities as may be necessary and most advantageous, and it shall be the duty of the Commission to assist in the sale of the bonds of the district, by advertising in newspapers or periodicals or in any other manner they see fit. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of bonds and the day and hour and place of such sale, and shall cause such resolution to be entered on the minutes and one copy to be forwarded to the secretary of the Commission, and notice of sale to be given by publication thereof once a week for at least two successive weeks in two newspapers published in the state, one of which shall be a newspaper published in the county in which the office of the board of directors is situated, if there be a newspaper published in said county, and in any other newspaper or periodical at their discretion; the notice shall state that sealed proposals will be received by the board at their office for the purchase of the bonds until the day and hour named in the resolution.

Resolution to sell.

Publication.

Opening bids.

At the time appointed, and in the presence of a member or representative of the Public Service Commission, who shall participate therein in any advisory capacity, the board shall open the proposals and either accept the most favorable bid received from responsible parties, or may reject any and all bids. After offering said bonds for sale, as above provided, if no satisfactory bid is received, the board may use said bonds for any purpose for which the proceeds from the sale of bonds may be used, either by way of sale, exchange or otherwise, at public or private sale, with or without advertisement or public notice, but such board shall in no event sell or dispose of any of said bonds for less than face value without the approval of the Commission, providing none of such bonds shall be disposed of for less than 90% of their face value, and provided further, that the board

Restrictions on sale.

HeinOnline -- 1923 419 1923

may, by resolution duly entered on its records cancel any bonds which may have been voted or issued which have not been sold, disposed of, or deposited as security for funds advanced or to be advanced and against which the state, United States, or any other person, firm or corporation shall have no claim to or equity in, and after the cancellation of said bonds the same shall not be sold or otherwise disposed of and shall be invalid and of no effect.

Nothing herein contained shall be construed to prohibit the board of directors from advertising for the sale of bonds, and at the same time for the delivery or exchange of bonds, in the alternative, to the end that proposals for purchase of the bonds or exchange of bonds for construction work, otherwise, may be received and passed upon at one and the same time, if the board so elects.

Lien of bonds.

Section 6. Section 3970 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to real as follows: Payment of bonds—Liability of property—Lien. Said bonds and the interest thereon due or to become due to the United States under any contract between the district and the United States, and all bonds and obligations for the payment of money authorized and incurred under this Act, shall constitute a general obligation of the district and shall be paid by the revenue derived from the annual assessments upon the land in the district, and all the lands in the district shall be and remain liable to be assessed for such payments as herein provided. subject to the provisions of this Act.

Payment.

Property liable for indebtedness.

In addition to the provisions for the payment of said bonds and interest by taxation and other provisions of this Act, all the property of the district, including irrigation and other works, shall be liable for the indebtedness of the district, and the holder or holders of the bonds of the district, may in case of default in the payment of interest or principal on the bonds, upon the order of the court, take possession of the irrigation and other works of the district and operate the same until the amount in default shall have been fully paid.

Prior lien of bonds.

All bonds issued hereunder shall be a prior lien upon all the lands originally or at any time included in the district for the irrigation and benefit of which said irrigation district was organized and said bonds issued, except as to such lands as may at any time have been included in such district on account of the exchange or substitution of water under the provisions of this Act, if any

HeinOnline -- 1923 420 1923

there be; and all such lands shall be subject to a special tax or assessment for the payment of principal and interest of such bonds; and said special tax or assessment shall constitute a first and prior lien on the lands against which levied to the same extent and with like force and effect as taxes levied for state and county purposes.

Exemption from taxation.

The bonds issued under the provisions of this Act, rights-of-way, ditches, flumes, pipe lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district, shall not be taxed for state, county or municipal purposes.

Creation of sinking fund.

Section 7. Section 3973 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Where straight maturity bonds are issued, it shall be the duty of the board of directors of the district to create and maintain a sinking fund sufficient to pay and discharge said bonds at maturity. If said bonds shall be issued for twenty years or less, there shall be annually levied for such sinking fund a special tax or assessment as aforesaid, sufficient to produce a net amount represented by the quotient found by dividing the aggregate amount of the principal of the bonds by the number of years the bonds have to run; but if said bonds are issued for more than twenty years, then it shall not be necessary to levy a special tax or assessment for sinking fund until the twentieth year prior to the maturity of the bonds, at which time and each year thereafter there shall be levied and collected a special tax or assessment sufficient to produce a net sum equal to one-twentieth part of the aggregate amount of the principal of the bonds.

Tax levy.

Investment in securities, when.

The board shall have power and authority, with the approval of the Commission, to direct the investment of funds in any bond sinking fund in interest bearing securities, whenever in their judgment the same may be to the best interests of the district. But all such securities shall be such as will be paid and converted into cash in time to meet the principal on the bonds payable from such sinking fund promptly at their maturity.

Section 8. Section 3974 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Determination annual administrative expenses—Levy and collection of tax. The Board of Directors shall on or before the second Monday in July of each year, determine the total amounts of money necessary to be raised by said district for the ensuing

Annual administrative expense, how determined.

HeinOnline -- 1923 421 1923

year, for any and all purposes whatsoever in carrying out the provisions of this Act, including interest on and principal of the bonded or other indebtedness of the district, maintenance and repairs, and may increase said amounts by not to exceed fifteen per cent, for the purpose of taking care of any delinquencies or contingencies.

Proportionate tax levy.

The board of directors shall levy against each forty acre tract or fraction thereof, as designated by the United States public surveys, that portion of the said amounts so to be raised which the irrigable area of each tract bears to the total area of all the irrigable lands of the district, said irrigable area to be determined by a careful topographic survey and map of all lands in the district, or by the best available information before the completion of such survey and map. Should it be found that a substantial error has been made in the determination of any assessment, proper adjustment may be made at the next annual assessment by increasing or decreasing the amount any landowner shall pay.

Adjustment of error.

Proviso.

Provided, however, that no assessment for interest and principal of bonded or other indebtedness shall be made or levied against any lands which may have been included within the district on account of the exchange or substitution of water under the provisions of this Act but all such lands shall be assessed for all administrative, maintenance and operating purposes, including the payment of interest upon warrants issued therefor, the same as other lands in the district. Not less than five days thereafter copies of the assessment list as outlined herein shall be transmitted by registered mail to the secretary of the Public Service Commission and to the county clerk of each county in which lands of the district are situated, showing the various items of expense the assessment is designed to cover, the various funds required therefor and the distribution to said funds. In case the Commission finds it necessary to change the levy as made by the board, the secretary shall transmit such change to the county clerk in each county containing acreage within the district not later than the third Monday in August; immediately thereafter the county clerk shall cause to be entered in the assessment book of said county or counties, and prior to the delivery of the said assessment books to the county treasurer, the assessment roll as transmitted by the Commission, or in the event the Commission has seen fit to make no change in the assessment as made by the board of directors, the original

Change in levy.

HeinOnline -- 1923 422 1923

assessment roll as submitted by the board shall be taken as the true and correct assessment against each tract for that year.

Public service commission to make levy when.

In the event that the board of directors shall fail to make such levy or make a levy insufficient in amount for the carrying out of the provisions of this Act including sinking fund requirements, bond interest and annual maintenance charges, it shall be the duty of the Public Service Commission to certify the amount of the necessary levy to the county clerk in which any part of such irrigation district is located, who shall thereupon levy the same.

County clerk to enter levy when.

In case both the board of directors and the Public Service Commission shall fail to certify such levy to the county clerk on or before the third Monday in August, it shall be the duty of the said county clerk to enter in the assessment books of said county the same levy as made for the preceding year, if any.

Lien of tax.

The tax thus determined by the irrigable area of each such tract shall become a lien upon the whole of said tract and shall attach thereto as of the first Monday of March of that year. The county treasurer shall thereafter collect such taxes or assessments at the same time and in the same manner as county and state taxes, and shall place said moneys in the respective funds as provided for by the levy.

Collection.

Apportionment of tax on sale of property.

In the event that the ownership of any tract of land in the district shall be divided after any tax or assessment against the same has been levied, each or either of the owners of such divisions shall be entitled to have such tax or assessment equitably apportioned to and against such divisions, so that each such owner shall be enabled to pay such tax or assessment against his portion of such tract, and have the same discharged from the lien thereof.

Directors may pay interest when.

In the event that for any reason, any special tax or assessment hereinabove provided for cannot or shall not be levied and collected in time to meet any interest falling due on any bonds issued hereunder, then the board of directors shall have the power and authority and it shall be its duty to provide for and pay such interest when due either out of any of the funds, except sinking fund, in hand in the treasury of the district not otherwise appropriated, or by warrants (which may bear interest at a rate not to exceed six per centum per annum) drawn against the next district tax or assessment levied

HeinOnline -- 1923 423 1923

Limitation.

or to be levied. The aggregate amount of such warrants outstanding at any one time shall not exceed one dollar per irrigable acre of land in the district. Said warrants shall be in addition to those mentioned in Section 9 of this Act.

Limit on debt incurring power.

Section 9. Section 3975 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Limitations powers directors to incur debt. The board of directors or other officers of the district, shall have no power to incur any debt or liability whatever either by issuing bonds; or otherwise, except as provided in this Act; and any debt or liability incurred, in excess of such express provision, shall be and remain absolutely void, except that for the purposes of organization, or for any of the immediate purposes of this Act, or to make, or purchase surveys, plans and specifications, or for stream gauging and gathering data, or to make any repairs occasioned by any calamity or other unforeseen contingency, the board of directors may, in any one year, incur an indebtedness of as many dollars as there are gross acres in the district, and may cause warrants of the district to issue therefor, bearing interest at the rate of not to exceed six per cent per annum.

Election of directors.

Section 10. Section 3990 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Election of directors—Bond—Organization. The regular election for directors in each district shall be held annually of the first Saturday in April of each year; the term of office of directors shall commence on the third Saturday in April following the election. At the first regular election following the creation of a district there shall be elected one director from the first division who shall hold his office for a term

Term of office.

of one year; one director from the second division who shall hold his office for a term of two years; one director from the third division, who shall hold his office for a term of three years; if there be five divisions in a district, one director shall be elected from the fourth division who shall hold his office for two years and one director shall be elected from the fifth division who shall hold his office for three years and if there be seven divisions in a district, one director shall be elected from the sixth division who shall hold his office for two years and one director shall be elected from the seventh division who

HeinOnline -- 1923 424 1923

shall hold his office for three years. At the regular elections held thereafter each year, there shall be elected for a term of three years or until his successor is elected and qualified, one director for each vacancy caused by the expiration of the term of office of a director that year; each director so elected must be an owner of land within the division for which elected and must be a qualified elector and a resident of the county in which the division of the district for which said director is elected, or some portion thereof, is situated.

Qualifications.

Directors shall be chosen by the electors of the entire district, and each director-elect before taking office shall take and subscribe the official oath to be administered by the held-over members of the board, and file same in the office of the board of directors. Each member of the board of directors shall execute an official bond in the sum of Two Thousand ($2,000.00) Dollars, which said bond shall be approved by the judge of the district court of said county where the organization was effected, and shall be recorded in the office of the county recorder thereof and filed with the secretary of said board. All official bonds of directors shall be in the form prescribed by law for the official bonds of county officers.

Oath of office.

Bond.

Approval.

Form.

On the third Saturday in April following each regular election, the board shall meet and organize by electing a president from their number and a secretary who may or may not be a director and who shall hold office during the pleasure of the board.

Organization and election of officers.

The board of directors may submit any proposal of major importance to a vote of the electors of a district at any regular or special election for decision; provided that such proposal when passed upon at an election shall be final and binding upon said board, unless reversed at a later election.

Submission of special proposals.

Section 11. Section 4014 of the Revised Codes of Montana, 1921, shall be and the same is hereby amended so as to read as follows: Inclusion state lands—Power of land board. The state land board for and on behalf of the State of Montana is hereby empowered to sign a petition for the inclusion of any lands belonging to the state in an irrigation district, and to pay all annual assessments thereon to the treasurer of the county in which the lands are located out of the funds of said state land board not otherwise appropriated; such payments shall be added each year to the appraised value of the

State land when and how included.

HeinOnline -- 1923 425 1923

land, and the land shall thereafter be sold for a sum no less than the appraised value, plus all assessments paid to date of sale.

Section 12. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 13. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 148.

An Act to Amend Subdivision 2 of Section 6537 of the Revised Codes of Montana of 1921, Relating to Leases, Sales and Mortgages of Railroad Equipment and Rolling-Stock, and Providing That the Same Shall Be Filed for Record in the Office of the Secretary of State.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6537 of the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Conditional sale of equipment, procedure.

Section 6537. CONDITIONAL SALE OF EQUIPMENT. In any contract for the sale of railroad or street-railway equipment or rolling-stock, it shall be lawful to agree that the title to the property sold or contracted to be sold, although possession thereof may be delivered immediately, or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon for the unpaid purchase money, and in any contract for the leasing or hiring of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of such contract, and that the rentals or amounts to be received under such contract may, as paid, be applied and treated as purchase-money, and that the title to the property shall not vest in the lessee or bailee until the purchase price shall have been paid in full, and until the terms of the contract shall have been fully performed, notwithstanding delivery to and possession by such lessee or bailee; provided, that no such contract shall be valid as against any subsequent judgment creditor, or any subsequent bona fide purchaser for value and without notice unless:

Effect of contract.

HeinOnline -- 1923 426 1923

1. The same shall be evidenced by an instrument executed by the parties, and duly acknowledged by the vendee, or lessee, or bailee, as the case may be, or duly proved, before some person authorized by law to take acknowledgment of deeds, and in the same manner as deeds are acknowledged or proved; Acknowledgment.

2. Such instrument shall be filed for record in the office of the Secretary of State of this state, and in cases in which the line of such railroad or street railway company lies wholly within one county, also in the office of the county clerk and recorder of said county. Filing.

3. Each locomotive engine or car so sold, leased, or hired, or contracted to be sold, leased, or hired as aforesaid, shall have the name of the vendor, lessor, or bailor, plainly marked on each side thereof, followed by the word "owner," or "lessor," or "bailor," as the case may be. Name of vendor.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

CHAPTER 149.

An Act Providing for the Propounding and Prosecution of a Claim by and in the Name of the State of Montana Against the Government of the United States for the Recovery, Under the Present Laws of the United States or Such as May Be Hereafter Enacted, From Said Government of All Moneys Heretofore Paid Illegally Into the Federal Treasury as a Direct Tax Upon Property Situated in the State of Montana; Providing for the Recovery of Same; Authorizing the Board of Examiners of the State to Employ Counsel and Enter Into the Necessary Contracts and Agreements for the Carrying Out of the Object of This Act; Providing for Notice to and Procedure by Claimants of Such Moneys and Fixing a Prescription Period After Which Such Moneys Shall Escheat to and Become the Absolute Property of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the Board of Examiners of the State of Montana be and it is hereby directed to propound to Suit for taxes illegally paid federal govt.

HeinOnline -- 1923 427 1923

and against the Government of the United States of America and to prosecute to collection a claim by and in the name of the State of Montana for all moneys heretofore paid illegally into the Federal treasury as a direct tax upon property situated in the State of Montana.

Board of examiners to seek legislation

Section 2. That if the Board of Examiners of the State of Montana finds that there is no Federal statute or law now existing providing for the payment of such funds into the treasury of the State of Montana, it is hereby directed to seek, in such manner as to it shall appear necessary and proper, legislation at the hands of the Congress of the United States, providing for the payment of such moneys into the treasury of the State of Montana.

Disposal of moneys.

Section 3. That all such moneys, so collected and paid by the Government of the United States, shall be paid into the Treasury of the State of Montana, less the commission for the collection thereof, and shall be held by the State of Montana for a period of five years in trust for the claimants of such funds.

Employment of counsel and making contracts.

Section 4. That the Board of Examiners of the State of Montana is hereby authorized to employ counsel and to enter into the necessary contracts and agreements with such counsel for the propounding and prosecution of such claim against the Government of the United States of America, and fixing the commission to be allowed said counsel for such work, such commission to be contingent upon the collection of such moneys from the United States and to be payable out of same, and not to exceed the ten per centum thereof, provided that the State shall incur no cost or expense in the propounding or prosecution of such claim other than such commission. Provided further that ten per centum of the moneys so collected from the United States shall be paid to the State of Montana to compensate the state for its services in assisting in such collection.

Proviso.

Notice to claimants, how given.

Section 5. That upon receipt of such funds from the United States by the Treasurer of the State of Montana, it shall be his duty to give notice to all claimants thereof by publication once each week for a period of eight successive weeks in a newspaper published in each of the counties of the State of Montana, and, if there be no newspaper in any county, by posting at the front door of the court house of such county for such period of time, which notices shall set forth that such moneys have been collect-

HeinOnline -- 1923 428 1923

ed and shall notify all claimants of same to propound their claim in writing by filing same with the Treasurer of the State of Montana, and shall warn all claimants and persons interested therein that a failure so to file their claims within a period of two years from the date on which such moneys were paid into the Treasury of the State of Montana, shall forever bar their right to such funds or any part thereof, and that in default of the filing of such claims, such funds shall escheat to and become the absolute property of the State of Montana.

Claims, how asserted.

Section 6. That all such claimants of such moneys shall file their claims in writing with the State Treasurer of Montana on such forms as shall be provided and shall submit their proofs and evidence to the Board of Examiners of the State of Montana. If such claims are approved by said Board of Examiners, the Auditor of the State of Montana shall draw a warrant on the Treasurer of the State of Montana, payable to the order of such claimant and the Treasurer shall pay such warrants out of the funds so collected from the Government of the United States and held in trust for such purpose. Either such claimants, or the State of Montana, through its Attorney General, may appeal from the decisions of the State Board of Examiners to the District Court of the First Judicial District of the State of Montana, in and for the County of Lewis and Clark. Such appeal may be taken by a notice of appeal served on the Secretary of State for the State Board of Examiners, where the appeal is taken by a claimant, and where it is taken by the state, by a like notice served on the claimant, in the manner provided by law for the service of notices. In either case, the notice of appeal shall be filed with the clerk of said Court within sixty days after the decision of the Board of Examiners. Any judgment rendered on such appeal in the District Court shall be subject to appeal to the Supreme Court.

Payment.

Appeals.

Funds to escheat, when.

Section 7. That at the end of a period of five years from the date on which said moneys so collected from the United States shall be paid into the treasury of the State of Montana, said funds, to the extent to which no claims have been filed against same, shall escheat to and become the absolute property of the State of Montana. Said funds, to the extent that any claims have been filed against same, shall remain in the State Treasury subject to the final determination of such claims, and all such

HeinOnline -- 1923 429 1923

funds not finally determined to belong to the claimants thereof shall at that time escheat to and become the absolute property of the State of Montana.

Section 8. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved March 8, 1923.

CHAPTER 150.

An Act to Amend Sections 2382, 2383 and 2392 of the Revised Codes of Montana of 1921 Relating to the Imposition of the Tax on Gasoline, the Collection and Disposition Thereof, Providing for Refunding Tax Paid in Certain Cases, and Repealing Sections 2393 and 2394 of the Revised Codes of the State of Montana, 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2382 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

Distributor's license tax.

"Section 2382. Every distributor shall pay, for the year 1923 and each year thereafter, to the state treasurer a license tax for engaging in and carrying on such business in this state, in an amount equal to two cents for each gallon of gasoline, and two cents for each gallon of distillate refined, manufactured, produced or compounded by such distributor and sold by him in this state, or shipped, transported or imported by such distributor into, and distributed and sold by him within this state, during such year; provided, however, that no gasoline or distillate distributed or sold by any such distributor in the original packages in which the same was shipped, transported or imported, into this state, shall be included or considered in determining the amount of such license tax, but only such gasoline and distillate as has been sold or distributed by such distributor after the breaking of the original packages in which the same was shipped, transported or imported into this state shall be included or considered in computing the amount of the license tax to be paid by such distributor; provided, further that all gasoline and distillate distributed by any distributor to any of its service stations in this state shall be deemed to have been sold, and shall be treated and considered, in computing such license tax in the same

Amount.

Proviso.

Proviso.

HeinOnline -- 1923 430 1923

manner as though the same had been sold to dealers or other persons."

Section 2. That Section 2383 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

Dealer's license tax.

"Section 2383. Every dealer shall for the year 1923, and each year thereafter, when engaged in such business in this state, pay to the State Treasurer for the exclusive use and benefit of the State of Montana, a license tax for engaging in such business in this state, equal to two cents for each gallon of gasoline and two cents for each gallon of distillate sold or distributed by such dealer in this state during such year; provided, however, that no gasoline or distillate sold by such dealer which, when purchased by him was contained in containers or packages other than the original containers or packages in which the same was shipped, transported or imported into this state, shall be included or considered in determining the amount of such license tax to be paid by such dealer, but only such gasoline and distillate as was shipped, transported or imported into this state and purchased by such dealer in the original package in which so shipped, transported or imported into this state, and then resold by such dealer after the breaking of such original packages by him, shall be included or considered for the purpose of computing the amount of such license tax."

Proviso.

Section 3. That Section 2392 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

Disposal of license tax.

"Section 2392. Forty per cent of all moneys received by the state treasurer in payment of license taxes under the provisions of this act shall be deposited by him and credited to the general fund of the state; twenty per cent of all such moneys so received by the state treasurer under the provisions of this act shall be deposited by him and credited to the state highway fund and the remaining forty per cent of such money so received by said state treasurer under the provisions of this act shall at the end of each fiscal year be distributed among and paid over to the several counties of the state in equal amounts to the credit and for the use of the general road funds of such counties which money shall be used solely for actual road maintenance."

HeinOnline -- 1923 431 1923

Section 4. That Sections 2393 and 2394 of the Revised Codes of the State of Montana, 1921, be, and the same hereby, are repealed.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall be in full force and effect from and after March 31st, 1923 and shall not apply to sales or distribution made prior thereto.

Approved March 9, 1923.

CHAPTER 151.

An Act to Amend Sections 717, 718 and 721 of Part 3, of the Political Code of Montana of 1921, Relating to Application of Absent Voter's Ballot.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 717, Part 3 of the Political Code, the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows:

Form of application for ballot.

"Section 717. FORM OF APPLICATION. Application for such ballots shall be made on a blank to be furnished by the County Clerk of the County of which the applicant is an elector, or the city or town clerk, if it be municipal, general, special or primary election, and shall be in substantially the following form:

"I, ..., a duly qualified elector of the ..... Precinct, in the County of ..... and State of Montana, and am to the best of my knowledge and belief entitled to vote in such precinct in the next election, expecting to be absent from the said county on the day for holding such election, hereby make application for an official ballot to be voted by me at the said election.

.....

Post Office Address to which ballot is to be mailed

.....

STATE OF .....)
)ss.
COUNTY OF .....)

On this ..... day of ....., personally appeared before me ....., who being first duly sworn, deposes and says that he is the person who signed the foregoing application, that he has read

HeinOnline -- 1923 432 1923

and knows contents of same and knows to his own knowledge the matters and things therein stated are true."

.....

.....

Oath.

This application must be subscribed by the applicant and sworn to before some officer authorized to administer oaths, and the application shall not be deemed complete without his affidavit.

Section 2. That Section 718 be, and the same is hereby amended to read as follows:

Transmission to county clerks.

"Section 718. The voter making such application shall forward by mail or deliver in person the same to the County Clerk of the County in which he is registered and it shall be the duty of the said County Clerk to look up the applicant's registration card and compare the signature on the application for absent voter's ballot and the registration card and if convinced the person making the application for absent voter's ballot and the person who signed the original registration card is one and the same person, he shall accept the same in good faith and deliver the ballot as provided in Section 719."

Delivery of ballot.

Section 3. That Section 721 of Part 3 of the Political Code of Montana, 1921, be and the same is hereby amended so as to read as follows:

Procedure to vote ballot.

"Section 721. MARKING AND SWEARING TO BALLOT BY ELECTOR. Such voter shall make and subscribe the said affidavit before an officer authorized by law to administer oaths, and who has an official seal, and may do so at any place in the State of Montana, or in any other state or territory of the United States, before any officer authorized by the laws of this state to take acknowledgements of instruments without the state, and such voter shall thereupon, in the presence of such officer and of no other person, mark such ballot or ballots, but in such manner that such officer cannot see the vote, and such ballot or ballots thereupon, in the presence of such officer, shall be folded by such voter so that each ballot shall be separate, and so as to conceal the vote, and shall be, in the presence of such officer, placed in such envelope securely sealed with mucilage and in addition thereto sealing wax in not less than two places thereon, the sealing wax to contain the impression of the official seal of the officer administering the oath. Said officer shall thereupon append his signature and official title and affix his seal at the end of said jurat and affi-

HeinOnline -- 1923 433 1923

davit. Said envelope shall be mailed by such absent voter, postage prepaid, or delivered to the county or city or town clerk, as the case may be."

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Section 5. This act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 12, 1923.

CHAPTER 152.

An Act Amending Section 8375 and Section 8377 of the Revised Codes of the State of Montana, 1921, Relating to Liens for Labor and Materials Furnished to Owners of Leaseholds for Oil and Gas Purposes and for Materials and Labor for the Construction of Oil and Gas Pipe Lines and Prescribing a Title of Perfecting and Enforcing Such Laws.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 8375 of the Revised Codes of the State of Montana for 1921 be, and the same hereby is, amended to read as follows:

Who entitled to lien.

"Section 8375. Any person, corporation, or co-partnership who shall under contract, expressed or implied. with the owner of any leasehold for oil and gas purposes, or the owner of any gas pipe or oil pipe line, or with the trustee or agent of such owner, who shall perform labor or furnish material, machinery, and oil well supplies used in the digging, drilling, torpedoing, completing, operating, or repairing of any oil or gas well, or who shall furnish any oil well supplies, or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing or repairing any gas well, shall have a lien upon all of the right, title and interest of such owner in and to the

Extent of lien.

whole of such leasehold or oil pipe line or gas pipe line, or lease for oil and gas purposes, the building, and appurtenances, and upon the material and supplies so furnished, and upon all of the right, title and interest of such owner in and to said oil and gas well for which they were furnished, and upon all of the right, title and interest of such owner in and to all other oil wells, fixtures, and appliances used in the operating for oil and gas pur-

HeinOnline -- 1923 434 1923

poses upon the leasehold for which said material and supplies were furnished and labor performed."

Section 2. That Section 8377 of the Revised Codes of the State of Montana, 1921, be, and the same hereby is, amended to read as follows:

"Section 8377. The liens herein created shall be enforced in the same manner, and the notice of same shall be given in the same manner, and the materialman's statement, or the lien of any laborer herein mentioned, shall be filed in the same manner as now provided by the laws of Montana for materialmen's and mechanic's liens, except that the time within which such liens must be filed shall be six months instead of ninety days; and the method of procedure provided by the laws of the State of Montana for enforcing of materialmen's and mechanic's liens shall govern the enforcement thereof."

Procedure to enforce.

Limitation of action.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 153.

An Act to Amend Sections 1224, 1225, 1226, 1228 and 1229 and to Repeal Sections 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241 and 1242, Revised Codes of Montana, 1921, All Relating to School District Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 1224, 1225, 1226 and 1229 of the Revised Codes of Montana, 1921, be, and the same are, hereby amended so as to read as follows:

"Section 1224. Issuance of Bonds — Submission of Question to Electors — Limit.

1. The board of school trustees of any school district within this state is hereby invested with the power and authority to issue and negotiate, on the credit of the school district, coupon bonds for any one or more of the following purposes:

Purposes for which bonds may be issued.

(a) For the purpose of building, altering, enlarging, repairing, or acquiring by purchase, one or more schoolhouses in said district;

(b) For the purpose of furnishing and equipping one or more schoolhouses in said district;

HeinOnline -- 1923 435 1923

(c) For the purpose of purchasing land for a schoolhouse site or sites;

(d) For the purpose of constructing or acquiring by purchase a teacherage in said district and purchasing necessary land therefor; and

(e) For the purpose of providing the necessary funds to pay and redeem maturing, redeemable or optional bonds when there is not sufficient money to the credit of the school district applicable to the redemption and payment of said bonds.

Submission of question, procedure.

2. The board of trustees of any school district within this state shall, whenever a majority of the trustees shall so decide after being petitioned so to do in the manner provided by Section 1252, submit to the electors of the district the question whether the board shall be authorized to issue coupon bonds to a certain amount, not to exceed three per centum of the assessed value of the property upon which taxes are levied and paid in said district exclusive of indebtedness incurred before the passage of this act; providing that the total amount of indebtedness shall not exceed three per centum of the full assessed value; which such coupon bonds shall bear interest at a rate not to exceed six per centum (6%) per annum, payable semi-annually on the first days of January and July in each year, and shall be paid and redeemed in equal annual installments, the amount thereof to be paid and redeemed in each year to be determined by dividing the total amount of the bonds to be issued by the total number of years throughout which instalments are to be paid; provided, that if the date of issue of the bonds shall be prior to the date of the annual tax levies in the year in which the bonds are issued the first interest on all bonds shall be paid and the first instalment of bonds shall be paid on the first day of January in the year immediately following the year in which the bonds are issued, but if the date of issue of the bonds shall be after the date of the annual tax levies in the year in which the bonds are issued then the first interest on all bonds shall be paid and the first instalment of bonds shall be paid and redeemed on the first day of January in the second year following the year in which the bonds are issued; and provided further, that no bonds shall be issued for a longer period than twenty years, and that all bonds remaining unpaid may be paid and redeemed at any time after the expiration of five years from their date of issue.

Interest.

Terms.

HeinOnline -- 1923 436 1923

provided such time and option be stated upon the face of such bonds.

Clerks to post notice.

Upon the passing of a resolution by the board of trustees, submitting to the qualified electors of the district the question of the issuance of bonds, the clerk of such school district shall, not less than fifteen days before the date specified for such election, post notices in three public places in said district, and in incorporated cities and towns at least one notice in each voting precinct, which notices must specify the time and place of election, the hours during which the polls will be open, and the amount, the maximum rate of interest, time payable, time redeemable, and the purpose of the proposed bond issue. Such notice of election shall be substantially in the following form:

Form of notice of election.

NOTICE OF SPECIAL BOND ELECTION.

Notice is hereby given by the undersigned clerk of School District No. .... of ..... County, State of Montana, that under and pursuant to a certain resolution duly adopted at a meeting of the trustees of said school district held on the ..... day of ....., 19...., an election of the qualified electors of School District No. ..... of ..... County, State of Montana, will be held at ....., on the ..... day of ....., 19...., for the purpose of voting upon the question of whether the board of trustees shall be authorized to issue coupon bonds to the amount of ..... Dollars, ($.....), bearing interest at a rate not exceeding ..... per cent per annum, payable semi-annually, said bonds to be payable (here state amounts and time payable, as for example, $10,000 on January 1st, 1920, and $10,000 on January 1st, each year thereafter until all bonds are paid) and redeemable at any time after five years from date of issue, for the purpose of .....

The polls will be open from ..... o'clock .... M. until ..... o'clock .... M.

Dated and posted this ..... day of ....., 19.....

.....

Clerk of School District No. .....

Additional bonds, procedure.

3. Should the trustees of any school district in which bonds have heretofore been issued to any amount desire to submit to the electors of the district the question as to whether additional bonds shall be issued, they may do so, but no such bonds shall be issued unless a majority of the votes cast at such election shall be cast in favor

HeinOnline -- 1923 437 1923

Limitation.

of such issue of additional bonds; and in no case shall the whole issue of bonds exceed three per centum of the per centum of the assessed value of the property upon which taxes are levied and paid within said school district, exclusive of indebtedness incurred before the passage of this act; providing that the total amount of indebtedness shall not exceed three per centum of the full assessed value, and nothing in this act shall be construed to prohibit the issuance of refunding bonds to take up outstanding indebtedness incurred before the passage of this act without first submitting the question to a vote of the taxpayers in said district."

"Section 1225. Manner of Holding Elections—Ballots —Forms of Bonds.

Election, how held.

1. Such election shall be held in the manner prescribed for the election of school trustees.

2. The ballots shall be substantially in the following form:

Form of ballot.

"Shall coupon bonds be issued and sold to the amount of ..... Dollars ($.....), bearing not to exceed ..... per cent interest, payable (describe in same manner as in notice of election) and redeemable at any time after five years from date of issue, for the purpose (state purpose in same manner as stated in notice of election)".

BONDS—Yes.

BONDS—No.

Voting.

Each elector shall prepare his ballot by putting an "X" before 'Bonds—Yes' in the vacant square provided therefor if he wishes to vote for the bonds or before 'Bonds—No' in the vacant square provided therefor if he wishes to vote against the bonds.

The foregoing sentence containing instructions for the marking of the ballot shall also be printed, typewritten or written upon the ballot at the top thereof.

Resolution for issuance.

3. Resolution for Issuance of Bonds. If a majority of the votes cast at such election are in favor of the issuance of such bonds, the board of school trustees shall, within sixty days from the date of such election, pass a resolution providing for the issuance of such bonds and prescribing the form thereof; such bonds shall bear the signature of the chairman of the board of trustees and shall be signed by the clerk of such school district, and

Execution of bonds.

the coupons attached to such bonds shall be signed by said chairman and clerk, provided, a facsimile of the signature of the chairman and clerk may be affixed to

HeinOnline -- 1923 438 1923

the coupons when so recited in the bonds, and the corporate seal of the school district shall be attached to each bond. Each bond, so issued, shall be registered by the county treasurer in a book provided for that purpose, which shall show the number and amount of each bond, its date, date payable, date redeemable, and the person to whom the same is issued or sold; and the said bonds shall be sold by the trustees as hereinafter provided."

Registry.

"Section 1226. Notice of Sale of Bonds. The board of school trustees shall give notice of the sale of such bonds by advertisement in some newspaper published in this state, at least once a week for four successive weeks, the date of the first publication to be not less than thirty days prior to the date of such sale; such advertisement must state the date, hour and the place where such sale will take place, and also the amount of such bond issue, the denomination of the bonds, rate of interest which they shall bear, times and amounts payable, time redeemable, and the purpose of the proposed bond issue; provided, however, that instead of stating the rate of interest in such notice, such notice may require each person making an offer to purchase such bonds to state the rate of interest which the said bonds shall bear. Such bonds shall not be sold for less than their par value and no brokerage, legal or other fees or commission of any kind shall be paid to any person or corporation for negotiating or assisting in the preparation or in the sale thereof, and the trustees are hereby authorized to reject any bids, and to sell such bonds at private sale, if they deem it for the best interests of the district. The board of trustees shall forthwith, upon the sale of such bonds, properly issue the same and deposit them with the county treasurer, who shall register the same and deliver them to the purchaser upon receipt of the purchase price therefor; provided, however, that in case such bonds be purchased by the state board of land commissioners the county treasurer shall forward such bonds to the State Treasurer who shall cause a warrant in payment for such bonds to be forwarded to the county treasurer. All moneys arising from the sale of such bonds shall be by the county treasurer credited to said district and the same shall be immediately available for the purpose of such bond issue."

Notice of sale of bonds.

Advertisement.

Limitation on sales.

Issuance and deposit of bonds, registry.

Disposal of money.

"Section 1228. Tax-Sinking Fund. The school trustees of each district which may issue bonds for any purpose after the passage of this act shall on or before the

Tax, sinking fund.

HeinOnline -- 1923 439 1923

second Monday in June of each year, ascertain and certify to the board of county commissioners of such county (and in the event such district is a joint school district to the board of county commissioners of each county in which any portion of such district is located) the amount necessary and required to pay all interest becoming due on such bonds during the ensuing fiscal year and to create a sinking fund sufficient to pay and redeem such bonds at their maturity; provided that if any portion of the principal of such bonds is to become due during the said fiscal year the amount to be certified to the board of county commissioners by the board of trustees shall be sufficient to pay all interest becoming due on all outstanding bonds during such fiscal year and such portion of the principal thereof as is to become due during such fiscal year, and in any event such amount shall be sufficient to pay all interest on all outstanding bonds becoming due during the ensuing fiscal year and to place in the sinking fund an amount equal to a sum produced by taking the whole amount of the principal of the bonds outstanding and dividing such amount by the number of years such bonds have to run before maturity. The school trustees of each district having an outstanding bonded indebtedness at the time of the passage of this act, shall on or before the second Monday in June of each year, ascertain and certify to the board of county commissioners of such county the amount necessary and required to pay all interest becoming due on such bonds during the ensuing fiscal year and to pay such portion of the principal of such bonds as is to become due during such ensuing fiscal year, if any, and in any event such amount must be sufficient to pay all interest becoming due on such bonds during the ensuing fiscal year and to place in the bond sinking and interest fund of such district an amount equal to a sum produced by taking the whole amount of the principal of all bonds of the whole issue or series as originally issued and dividing such amount by the whole number of years for which such bonds were originally issued to run. Any board of trustees failing to comply with the provisions of this section shall be subject to immediate removal from office by the county superintendent, and in the event of such failure the county superintendent shall advise the board of county commissioners on or before the first Monday in August of the amount of money necessary to be raised for the above mentioned purposes."

Proviso.

Penalty.

HeinOnline -- 1923 440 1923

"Section 1229. Same—Redemption of Bonds. The board of county commissioners, at the time of making the levy of taxes for county purposes must levy a tax for that year upon all taxable property in such district for payment of interest on and redemption of such bonds. If such levy is to be made for the purpose of paying the interest on and principal of bonds issued after the passage of this act, such levy must be high enough to raise an amount sufficient to pay all interest becoming due on all outstanding bonds during the current fiscal year and such portion of the principal thereof as will become due during such current fiscal year, and in any event such levy must be high enough to raise an amount sufficient to pay all interest becoming due on all outstanding bonds during the current fiscal year and to place in the sinking fund an amount equal to a sum produced by taking the whole amount of the principal of the bonds outstanding and dividing such amount by the number of years the bonds have to run before their maturity; and if such levy is to be made for the purpose of paying the interest on and principal of bonds issued before the passage of this act, then such levy must be high enough to raise an amount sufficient to pay all interest becoming due on said bonds during the current fiscal year and to pay such portion of the principal of such bonds as is to become due during such current fiscal year, if any, and in any event such levy must be high enough to raise an amount sufficient to pay all interest becoming due on said bonds during the current fiscal year and to place in the bond sinking and interest fund of such district an amount equal to a sum produced by taking the whole amount of the principal of all bonds of the whole issue or series as originally issued and dividing such amount by the whole number of years for which such bonds were originally issued to run; and all moneys so levied, when collected, must be paid into the county treasury and deposited to the credit of a fund to be known as the bond sinking and interest fund, and shall be used for the payment of bonds and interest coupons and for no other purpose whatever, and the county treasurer shall open and keep in his books a separate and special account thereof which shall at all times show the exact condition of such fund; provided, however, that any money now standing to the credit of any interest fund or bond fund received from taxes heretofore levied and collected for the purpose of paying the interest on or principal of any outstanding

Tax levy.

Amount of levy.

Treasurer to open account.

Proviso.

HeinOnline -- 1923 441 1923

bonds issued by any school district shall be transferred to and become a part of the bond sinking and interest fund of such district.

Mandamus to compel tax levy, when.

If the board of county commissioners shall fail in any year to make a levy sufficient to raise the amount necessary for the payment of principal and interest, or the creation of a sinking fund as herein provided, the holder of any bond, or any taxpayer paying taxes on property situated in such school district, may apply to the district court of the county in which such school district is situated for a writ of mandate to compel the board of county commissioners of such county to make a sufficient levy for such purposes, and if, upon the hearing of such application, it shall appear to the satisfaction of the court that the board of county commissioners of such county has failed to make any levy whatever, or has made a levy but that the same is insufficient to raise the amount required to be raised under the provisions of this section,

Writ to issue, when.

the court shall determine the amount of such deficiency and shall issue a writ of mandate directed to and requiring the said board of county commissioners, at the next meeting thereof for the purpose of fixing and making levies for county purposes, to fix and make a levy against all taxable property in such school district sufficient to raise the amount of such deficiency, which levy shall be in addition to the levy required to be made for the

Proviso.

then fiscal year in which such meeting is held; provided that any costs which may be allowed or awarded the petitioners in any such proceeding shall be paid by the members of such board of county commissioners, and shall not be a charge against either such school district or the county, provided, however, that nothing contained in this act shall be so construed as to prevent school districts issuing bonds from giving preference to bonds issued on the amortization plan, or otherwise amending the laws of this state in regard to amortization bonds. The amortization plan is here used in the sense defined by Section 1928 of the Revised Codes of Montana of 1921, as amended by the Eighteenth Legislative Assembly.

Saving clause on repeal.

Section 2. That Sections 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241 and 1242, Revised Codes of Montana, 1921, be, and the same are hereby, repealed; provided, however, that any and all outstanding bonds issued by school district under the provisions of such sections, the proceedings for the issuance of which fully conform to and comply with the provisions and requirements thereof,

HeinOnline -- 1923 442 1923

shall be deemed and held to be valid and subsisting bonds in such districts, and shall be paid and redeemed (in the manner provided by said sections before the repeal thereof by this act.

Section 3. This act shall be in full force and effect from and after the 1st day of March, 1924.

Approved March 12, 1923.

CHAPTER 154.

An Act Providing for the Supervision and Regulation of the Transportation of Persons and Property for Compensation Over Any Public Highway in the State of Montana by Motor Vehicles, Motor Trucks, Motor Busses, Bus Trailer, Semi-trailers and Other Motor Vehicles; Defining What Constitutes Transportation for Compensation, Defining Transportation Companies, and Providing for the Supervision and Regulation Thereof by the Railroad Commission of Montana; Providing for the Enforcement of This Act and the Punishment for Violation Thereof and Declaring an Emergency.

Definition of terms.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The term "corporation" when used in this act means a corporation, company, association or joint-stock company;

(b) the term "person" when used in this act means an individual, firm, or co-partnership;

(c) the term "Transportation Company" when used in this act means every corporation, person, their lessees, trustees, receivers, or trustees appointed by the Court whatsoever, owning, controlling, operating, or managing any motor vehicle, motor truck, motor bus, bus trailer, semi-trailer or other trailer in connection therewith, used in the business of transportation of persons or property or as a common carrier for compensation over any public highway in this state between fixed termini, or over regular or irregular routes not operating exclusively within the limits of any incorporated city or town;

(d) the term "public highway" when used in this act means every public street, road, highway or way in this state;

(e) the words "for compensation" shall be construed to mean transportation of any person for hire in any

HeinOnline -- 1923 443 1923

motor vehicle; provided, that the Railroad Commissioners may exempt from the operation of this act the transportation of freight or passengers by motor vehicle in rural communities when not done on a commercial basis;

(f) the term "motor vehicle" when used in this act shall mean any self propelled vehicle moving over the highway of this State, excepting road rollers, farm tractors, traction engines, fire extinguishing engines and police or hospital busses or ambulances; provided that every motor vehicle equipped with more than four wheels shall be declared to be a motor vehicle used in connection with a trailer or sub-trailer.

What transportation subject to this act.

Section 2. No corporation or person, as defined in section one of this act, their lessees, trustees, receivers, trustees appointed by the Court whatever, shall operate any motor vehicle, motor truck, motor bus, bus trailer, semi-trailer, or other trailer in connection therewith for the transportation of persons or property for compensation of any highway or public highway in this State except in accordance with this act.

Railroad commission to supervise transportation companies.

Section 3. The Railroad Commissioners of Montana are hereby authorized to supervise every transportation company as defined in section one of this act and on complaint to inquire into rates, fares, and charges to be charged by such transportation company, and to prescribe in each case so brought before said commission an equitable rate, fare, or charge and to require such transportation companies to provide adequate facilities for the conveyance and transportation and to regulate the service and safety of operation of each such transportation company, to require such transportation company to file annual reports and from time to time to furnish such other data as said commission may require in order to administer this Act. Cities and towns may enact and enforce reasonable regulations and regulatory ordinances including the imposing of regulatory licenses not destructive of the general purposes of this act. Nothing in this act shall empower the Railroad Commissioners of Montana to restrict the operation of such transportation company or companies, as have complied with the provisions of this act, in the use of the public highways.

Annual report.

Certificate to be obtained by transportation companies.

Section 4. No transportation company, as defined in section one of this act, shall hereinafter operate any motor vehicle, motor truck, motor trailer, bus trailer, semi-

HeinOnline -- 1923 444 1923

trailer or other trailer in connection therewith for the purpose of transportation of persons or property for compensation on any public highway of this State without first having obtained from the Railroad Commissioners of Montana a certificate which shall set forth the special terms and conditions under which permission is granted to operate any of the vehicles above mentioned. No permit held or owned or obtained by any transportation company shall be assigned, leased or transferred except upon the authority or authorization of the railroad commissioners of Montana. A permit issued by the railroad commission to operate any motor vehicle or any other vehicle prescribed by this act for compensation over any of the highways of the state of Montana shall not be an exclusive right or license to operate over any route, road, highway or between any fixed terminals, but said Commission shall have the power after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder or licensee, under this act, only when the existing auto transportation company or companies serving such territory, route or stage line, does not provide adequate transportation facilities and service to the satisfaction of the Commission, and in all other cases with or without hearing, to issue said certificate as prayed for, or for good cause shown to refuse to issue same or to issue it for the partial exercise only of the said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment the public convenience and necessity may require.

Regulation of permits.

Section 5. The Railroad Commission of Montana shall have the power to revoke any permit or license issued under the powers granted by this act, and may revoke any such permit or license when the holder or holders thereof or his or of their agents, or representatives shall be guilty of repeated violations of this act or of the motor vehicle laws of the State of Montana, but no action shall be taken without notice, as the railroad commission shall deem sufficient, and upon a hearing thereon.

Revocation of permits.

Section 6. No transportation company shall, subsequent to the taking effect of this act, operate any motor vehicle, motor bus, bus trailer, semi-trailer or other trailer in connection therewith, for the transportation of persons or property for compensation or any public highway in this State without first having filed with the

Bond of company.

HeinOnline -- 1923 445 1923

railroad commission of Montana a good and sufficient bond with such surety or sureties and conditions satisfactory to the railroad commission, or liability insurance, in such a penal sum as the railroad commission may deem necessary to adequately protect the interests of the public, with due regard to the number of persons and amount of property involved, which surety bond or liability insurance shall bind the obligators thereunder to make compensation for injuries to persons or loss of or damage to property resulting from the operation of such vehicles. The foregoing shall not prevent the acceptance of substitute security in lieu of bonds. Said railroad commissioners shall also require a satisfactory bond in such penal sum and conditioned upon the payment of all fees or charges which may be due the state under any permit for operation and for the faithful carrying out of any permit granted by the railroad commissioners and which it has authority by law to grant, and no transportation company which shall fall within the terms of this act shall give the bonds herein required shall be required to give any other bond or security by any city or town, or other agency of the State. Personal sureties shall not be accepted by the railroad commission upon any bond provided by this act.

Conditions.

Procedure before commission.

Section 7. In all matters in which the railroad commission of Montana has the power and authority under the constitution and laws of this state or of this act, application and complaints may be made to the railroad commissioners of Montana, processes issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and proceedings instituted in the District Court of any county in Montana, and appeals taken to the Supreme Court of Montana, in the manner, under the conditions, and subject to the limitations and with the effect specified in the laws applicable to or regulating the Railroad Commission of Montana, as such laws may provide.

Appeals.

License fee.

Section 8. The Railroad Commission of Montana is hereby authorized and empowered in the regulation of the persons and corporations as defined in this act, to require the payment of an annual license fee to be paid by each transportation company doing business within the meaning of this act, in accordance with the number and weight and size of such vehicle or vehicles owned or operated by it, such license fee, not to exceed the

HeinOnline -- 1923 446 1923

sum of ten dollars ($10.00) per vehicle, to be imposed for the purpose of defraying the expenses of administration of this act and the regulation of the businesses herein described. Such license fees so imposed and collected shall be by the railroad commission paid into the State Treasury of Montana monthly and there shall be placed to the credit of the general fund; and any such payment or payments when so made shall constitute and be considered as and are hereby made, an appropriation of such sums or amounts from the general fund for the purpose of carrying out the provisions of this act. All expenses of whatsoever kind or nature of the railroad commissioners incurred in carrying out the provisions of this act shall be audited by the State Auditor and passed by the Board of Examiners of this state and paid out of the moneys hereby appropriated upon the presentation of the duly verified claims therefor after approval by the railroad commissioners of Montana in the same manner as other claims against the state are audited and paid.

Amount.

Payment.

Expenses, how paid.

Section 9. Every officer, agent or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand, or requirement, or any part or provision thereof of the railroad commission of Montana, or who procures, aids or abets, any corporation or person in its failure to observe or comply with any such order, direction, decision, rule, demand or requirement, or any part or provision thereof, shall be guilty of a misdemeanor and shall be punishable by a fine of not less than fifty dollars ($50.00) and not exceeding one thousand dollars ($1000.00) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment in the discretion of the Court.

Penalty.

Section 10. Neither this act nor any provisions thereof shall be applied or be construed to apply to commerce with foreign nations or commerce among the several states of this union except in so far as the same may be permitted under the constitution of the United States, treaties made thereunder and the acts of Congress.

Scope of act.

Section 11. If any section, sub-section, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the

Effect of partial invalidity act.

HeinOnline -- 1923 447 1923

remaining portions of this act. The Legislative Assembly declares that it would have passed this act and each section, sub-section, sentence, clause, and phrase thereof irrespective of the fact that any one or more section, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

Section 12. This act shall be in full force and effect on and after its passage and approval.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1923.

CHAPTER 155.

An Act Appropriating Money for the Purchase of Certain Property for the Montana State Prison.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation for purchase of property for prison.

Section 1. There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of $46,496.50 for the purchase of the following described tracts of land for the use of the Montana State Prison, to-wit:

A. The so-called Valiton Ranch, being a tract of land in Powell County, Montana, comprising 503 acres more or less, heretofore leased and operated in connection with the Montana State Prison, and the title to which is now covered by a certain contract and escrow agreement entered into between the Deer Lodge Irrigation and Agricultural Company, a Minnesota corporation, and Frank Conley.

B. The so-called Bratten Ranch, comprising 136 and 75-100 acres of land adjoining said Valiton Ranch and owned by Frank Conley.

C. The so-called Setzler Ranch, comprising 18 and 81-100 acres of land, adjacent to the lands above described and owned by Frank Conley.

Other property to be acquired.

Section 2. As a part of the purchase hereby authorized, the state shall receive without additional cost all the crops raised on the said Valiton Ranch in the year 1922 and shall likewise acquire all water rights belonging or appurtenant to the lands hereinbefore authorized to be purchased.

HeinOnline -- 1923 448 1923

Appropriation for purchase of equipment.

Section 3. There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of $3500.00 for the purchase of live stock, machinery and other equipment necessary for the farming of the lands aforesaid.

Board of examiners to purchase.

Section 4. The State Board of Examiners of the State of Montana is hereby authorized and directed to purchase the property hereinbefore described and to cause the same to be operated for the use and benefit of the Montana State Prison, under the general superintendence of the warden of said prison and subject to the supervision and control of the Board of Prison Commissioners.

Section 5. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 156.

An Act to Amend Section 5194 of the Revised Codes of Montana of 1921, Relating to the Levy of Taxes by Municipalities for General Municipal, Administrative and Park Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5194 of the Revised Codes of Montana of 1921 be, and the same is hereby amended so as to read as follows:

Amount of tax for general Administrative purposes.

"5194. AMOUNT OF TAX FOR MUNICIPAL PURPOSES — DISTRIBUTION OF FUNDS — LEVY FOR PARK PURPOSES. The amount of taxes to be levied and assessed for general municipal or administrative purposes in cities of the first class with a population of thirty-five thousand or over must not exceed twelve mills on each dollar of the assessed valuation of the taxable property in all such cities of the first class, and in all other cities and towns must not exceed ten mills on each dollar of the assessed valuation of the taxable property of the city or town; and the council in each city or town may distribute the money collected into such funds as are prescribed by ordinance; provided, that for the purpose of maintaining public parks the council in any city or town may assess and levy, in addition to the said levy for general municipal or administrative purposes, not exceeding two mills on each dollar of the assessed valua-

Special levy for parks.

HeinOnline -- 1923 449 1923

tion of the taxable property of the city or town; and provided further, that the words 'assessed valuation,' as used in this section, shall be deemed to be the percentage of the true and full value of the taxable property provided in Section 2000, and shall not be deemed to be the true and full valuation of such property."

Section 2. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 157.

An Act Relating to Irrigation Districts, and Amending and Re-enacting Sections 7166, 7171, 7173, 7174, 7177, 7184, 7210, 7212, 7214, 7215, 7220, 7224, 7226, 7227, 7228, 7229, 7230, 7234, and 7235 of the Revised Codes of Montana of 1921, Which Relate to the Establishment, Organization and Government of Irrigation Districts; Providing Who May Organize Such Districts and in What Cases, and Requirements Therefor, and Making Regulations for the Status, Powers, Duties, Organization and Place of Meeting of the Board of Commissioners of Such Districts, Vacancies in Such Board, and the Salary and Compensation of Such Commissioners and Penalty for Interest in Contracts; for the Qualification and Designation of Electors and the Manner of Voting by Agents, Co-owners and Purchasers of Land Under Contract of Sale; Concerning the Purposes for Which Bonds of Such Districts May Be Issued, and the Authorization, Issuance, Confirmation, Details, Record, Negotiation, Disposition, Delivery and Cancellation of Such Bonds, and the Disposition of Proceeds of Sale Thereof; for the Refunding, Redemption and Payment of Bonds and Warrants of Such Districts, and the Authorization, Issuance, Confirmation, Details, Record, Negotiation, Disposition, Delivery and Cancellation of Refunding Bonds of Such Districts, and the Lien of Such Refunding Bonds and of Taxes and Assessments Levied to Pay the Same; Also Providing Rules for Apportionment of Costs and the Charging Thereof to the Lands, With Express Provisions for Pumping Costs; Making Regulations for Assessments and the Levy, Adjustment, Collection and Cancellation of, and Limitations Upon, Taxes and Assessments, and the Apportionment of Such Taxes and Assessments

HeinOnline -- 1923 450 1923

According to the Irrigable Area of Such Districts; for the Expenses of the State Irrigation District Bond Commission and the Expenditures by Such Districts of Funds Derived From Bonds Certified by Such Commission; and Enacting Two New Sections to Be Designated as Sections 7235A and 7235B of Said Revised Codes of Montana of 1921, Also Relating to Such Irrigation Districts, Providing for Proceedings and for the Determination of the Irrigable Area of Such Districts and the Apportionment of the Costs of Any Works or Improvements to the Lands in Such Districts, and the Confirmation of Such Proceedings by the District Court, and Providing for the Extent of the Liens of Taxes and Assessments Levied Upon the Lands in Such Districts and for the Refund or Cancellation of Assessments Upon Excess Acreage, and Limiting and Defining the Rights and Privileges of Owners of Tracts of Land Containing No Irrigable Area, and Limiting the Period Within Which the Taxable Acreage of Any Lands in Said Districts May Be Fixed and Adjudicated.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 7166 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

"7166. WHO MAY ORGANIZE DISTRICTS. A majority in number of the holders of title or evidence of title to lands sought to be included in an irrigation district and which are susceptible of irrigation, such holders of title or evidence of title also representing a majority in acreage of said lands, may propose the establishment and organization of an irrigation district under the provisions of this Act. Irrigation districts may be formed in order to co-operate with the United States under the federal reclamation laws heretofore or hereafter enacted, or under any act of congress which shall permit of the performance by the United States of work in this state, for the purposes of construction of irrigation works, including drainage works, or for purchase, extension, operation, or maintenance of constructed works, or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district lands. When so organized, such district shall have the powers conferred or that may hereafter be conferred, by law upon such irrigation district.

Who may organize.

HeinOnline -- 1923 451 1923

What is evidence of title.

The county assessment roll or rolls of the county in which any lands included within such proposed irrigation district are situated, which assessment roll, or rolls, has been last equalized at the time of the filing of the petition provided for in section 7167 of this code, or the certificate of the county clerk and recorder, or the certificate of the Register of the State Land Office, shall be sufficient evidence of title for the purpose of this act. Where lands have been purchased from the state and part or all of the purchase money has been paid, but the patents or deeds from the state to such lands have not been issued, the receipt or receipts held by the purchasers, or the certificate of the register of the state land office showing the payments on account of purchase, shall be evidence of title to such lands under this act.

Status of homesteaders.

For the purposes of this Act, entrymen of public lands of the United States within the district shall be deemed to be holders of evidence of title, and shall share all the privileges and obligations of owners of land within the district, subject to the provisions of the act of congress, approved August 11, 1916, entitled 'An act to promote the reclamation of arid lands'."

Report of State Engineer.

"Before any such district shall be established, there shall be presented to the District Court at the hearing on the petition for such establishment, a written report or opinion from the State Engineer on the engineering features involved and the possibilities of water supplies. For this purpose, a copy of the petition provided for in Section 7167 of this code, and of all maps and other papers filed with the same, shall be filed with the State Engineer at the time the original petition is filed with the Clerk of the District Court. The expense, if any, incurred by the State Engineer (other than his salary), in his investigation and report upon the proposed district shall be certified, with his report, to the said District Court, and shall be assessed as costs in said hearing, which costs shall be paid by the district in event of its establishment and in event such petition be denied, then such costs shall be paid by the petitioners; Provided, however, that such report or opinion shall be not requested or obtained, and shall not be necessary, whenever it is proposed to cooperate with the United States under the federal reclamation laws heretofore or hereafter enacted, or under any act of congress which shall permit of the performance by the United States of work in this state, for the purposes of construction of irrigation works, including drainage

Expense, how paid.

Proviso.

HeinOnline -- 1923 452 1923

works, or for purchase, extension, operation, or maintenance of constructed works, or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district laws."

Section 2. That Section 7171 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

"7171. ORGANIZATION OF BOARD OF COMMISSIONERS—PLACE OF MEETINGS. The commissioners shall meet within ten days after their appointment and shall organize as a board by the election of one of their number as president; they shall also elect a secretary (who may or may not be a commissioner). The compensation of the secretary and all other employees authorized under this Act shall be fixed by the board.

Organization and place of meeting.

Compensation, how fixed.

The board shall also at this meeting designate the place where the office of the board shall be established and maintained and its records kept, which place shall be in the county containing the major portion of the lands in the district; and such place shall not be changed except by resolution of the board, of which notice shall be given by at least one publication in some newspaper published or of general circulation in the county wherein the office of the district is located, and by posting in at least three public places in each division of the district."

Office of board to be designated.

Section 3. That Section 7173 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

"7173. SALARY OF COMMISSIONERS—PENALTY FOR INTEREST IN CONTRACTS. The commissioners, when sitting as a board or when engaged in the business of the district, shall each receive not to exceed five dollars per day for services, and, in addition thereto, their necessary expenses in attending meetings or when otherwise engaged on district business, including premium on qualifying bond, provided, such expense and per diem be approved by unanimous vote of said board.

Salary of commissioners.

No commissioner or any other officer named in this act shall in any manner be interested directly or indirectly in any contract awarded or to be awarded by the board, or in the profits derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor and his conviction thereof shall work forfeiture of his office and he shall be punished by a fine not exceeding five hundred dollars or by imprisonment in

Penalty for interest in contracts.

HeinOnline -- 1923 453 1923

the county jail not exceeding six months, or by both such fine and imprisonment."

Board of commissioners.

"The Commissioners of said irrigation district shall each furnish a bond in the penal sum of Ten Thousand Dollars ($10,000.00) with corporate surety conditioned for the faithful performance of their duties under this Act, and the secretary shall furnish bond, with corporate surety, in the sum of One Thousand Dollars ($1,000.00), conditioned for the faithful performance of his duties pursuant to this Act, and for the proper and safe keeping of the records and documents of said district, in all cases where the obligations of said district, either existing or proposed, total Two Hundred Fifty Thousand Dollars ($250,000.00) or over. In all other cases the bond for said commissioners shall be in the sum of Twenty-five Hundred Dollars ($2,500.00).

Section 4. That Section 7174 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Powers and duties of the board.

"7174. THE BOARD OF COMMISSIONERS—THEIR STATUS, POWERS, AND DUTIES. The board of commissioners of every irrigation district established and organized under and by virtue of this act shall constitute the corporate authority of said district.

Management of affairs.

(1) The board shall have the power, and it shall be the duty of the members thereof, to manage and conduct the business and affairs of the district; adopt a corporate seal therefor; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties.

Entry on lands.

(2) The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works, including drainage works and the line for any canal or canals, and necessary branches for the same, on any lands which in the judgment of the board may be deemed best suited for such location.

Contracts.

(3) The Board shall have power and authority to appropriate water in the name of the district, to acquire by purchase, lease, or contract, water and water rights; additional waters and supplies of water, canals, reservoirs, dams and other works already constructed, or in the course of construction, with the privilege, if desired, to contract with the owner, or owners of such canals, reservoirs, dams and other works so purchased and in the

HeinOnline -- 1923 454 1923

course of construction, for the completion thereof and shall also have power and authority to acquire by purchase, lease, contract, condemnation, or other legal means, lands (and rights in lands) for rights-of-way, for reservoirs, for the storage of needful waters, and for dam sites, and necessary appurtenances, and such other lands and property as may be necessary for the construction, use, maintenance, repair, improvement, enlargement and operation of any district system of irrigation works."

(4) The board shall have power and authority to enter into, and do any acts necessary or proper for the performance of, any agreements with any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair, or operation of any rights, works or other property of a kind which might lawfully be acquired or owned by the irrigation district, and may acquire the right to store water in any reservoirs or to carry water through any canal, ditch, or conduit not owned or controlled by the district, and may grant to any owner or lessee of the right to the use of any water the right to store such water in any reservoir of the district or to carry such water through any canal, ditch or conduit of the district.

Limitation on contracts.

(5) But no purchase, lease or contract for purchase of any water, or water rights, or canals, or reservoirs, or reservoir sites, or dam sites, or irrigation works or other property of any nature or kind or for the making or purchasing of surveys, maps, plans, estimates and specifications, or for the purchase of machinery for pumping plants, or the erection of buildings, aqueducts and other structures necessarily used in connection with such pumping plants, for a price or rental in excess of ten thousand dollars, shall be final or binding upon the district, nor shall said sum be paid without the written consent or petition of at least a majority in number and acreage of the holders of title or evidence of title to the lands within the district. Any splitting or division of such purchase, lease or contract with the purpose or intention of avoiding or circumventing the provisions of this section shall render such divided or split contract or contracts absolutely null and void.

Investigations.

(6) For the purpose of acquiring control over government land within the district and of complying with the provisions of the Act of Congress of August 11, 1916, the

HeinOnline -- 1923 455 1923

board shall have authority to make such investigations, and base thereon such representations and assurances to the secretary of the interior, as may be requisite.

Federal contracts.

(7) The board may enter into any obligation or contract with the United States for the construction, operation, and maintenance of the necessary works for the delivery and distribution of water therefrom, and of the necessary drainage works; or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district lands, under the provisions of the Federal Reclamation Act and all Acts amendatory thereof or supplementary thereto, and the rules and regulations established thereunder; or the board may contract with the United States for a water supply under any Act of Congress providing for or permitting such contract, and in case contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be deposited with the United States at ninety per cent. of their par value, to the amount to be paid by the district to the United States under any such contract, the interest on said bonds of the district and regularly paid to the United States to be applied as provided in such contract, and if bonds of the district are not so deposited, it shall be the duty of the board of commissioners to include as part of any levy or assessment provided for in section 7232, an amount sufficient to meet each year all payments accruing under the terms of any such contract; and the board may accept, on behalf of the district, appointment of the district as fiseal agent of the United States, or authorization of the district by the United States to make collections of moneys for or on behalf of the United States in connection with any federal reclamation project, whereupon the district shall be authorized to so act and to assume the duties and liabilities incident to such action, and the said board shall have full power to do any and all things required by the federal statutes now or hereafter enacted in connection therewith, and all things required by the rules and regulations now or that may hereafter be established by any department of the federal government in regard thereto, including the power to require the prompt payment of all charges as prerequisite to water service.

Construction of works.

(8) Said board may also construct and maintain the necessary dams, reservoirs, and works for the collection and distribution of water for the district, from one or more sources and from different and additional sources,

HeinOnline -- 1923 456 1923

and operate such works, and may secure in any of the manners in this Act provided additional water supplies from the same or different sources, and do any and every lawful act necessary to be done in order that sufficient water may be furnished for irrigation purposes to all the lands in the district included at the time of its organization or at any time thereafter.

Receipt of conveyances.

(9) The board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this Act, in the name of the district, to and for the uses and purposes herein expressed.

Maintenance of actions.

(10) The board is hereby authorized and empowered to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this chapter, or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this Act, or acquired in pursuance thereof, and in all courts, suits, or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such irrigation district.

Rules and by-laws.

(11) The board may adopt rules and by-laws governing the calling and holding of meetings of the board, the manner of transacting business thereat, and the publishing or posting of the orders, resolutions, and proceedings of the board. It shall be the duty of said board to pass or adopt by-laws, rules and regulations for the apportionment and distribution of water to the lands of the district, and for the protection and preservation of the works and other property of the district, which shall be printed in convenient form for distribution in the district; and may therein require the prompt payment of all taxes and assessments delinquent for not to exceed two years as a prerequisite to water service. All orders and resolutions shall be passed or adopted by a majority of the commissioners by a yea and nay vote, to be entered upon the records of the board.

General plan of purchase.

(12) For the purpose of purchasing or constructing the necessary irrigation canals or works, or acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this Act, the board of commissioners of any irrigation district must, as soon after such district has been organized as practicable, formulate a general plan for such purchase, construction, and acquisition of such property, and shall cause such

HeinOnline -- 1923 457 1923

surveys, examinations, and plans to be made as shall demonstrate the practicability of such plans, as well as of procuring water from other and different sources, the amount of land that can be irrigated thereunder, and furnish the proper basis for an estimate of the cost of carrying out such plan and the value of any canal, works, property, or system of irrigation proposed to be purchased. All such surveys, examinations, maps, plans, and estimates shall be made by or under the direction and supervision of an irrigation engineer of well-known standing and competency, and all such necessary surveys, examinations, maps, plans and estimates must be certified to by him. When all such are completed, he shall submit them with all proper field notes to, and file them with, the board of commissioners, accompanied by his report and recommendation thereon. This report shall include a discussion of said plans by him submitted to said board, of the question of water supply, of the sufficiency of the works proposed to accomplish the desired results, of the practicability of the proposed system from an engineering standpoint, of the probability of being acquired or constructed within the estimate of the cost stated, and such general discussion and recommendation in regard to the engineering and financial features of the whole matter as in the judgment of such engineer shall be desirable for the information of the people of the district. Such report shall be accompanied by a map, when such is necessary for a proper explanation or understanding of the same.

Surveys, how made.

Report of engineer.

Determination by commissioners.

Upon receiving such report, said board of commissioners shall proceed to determine the amount of money necessary to be raised for the purchase or construction of said proposed property, canals, or irrigation works, and system, and within ten days after arriving at such determination shall cause the secretary of said board to notify all persons or corporations holding title or evidence of title to lands within said district (ascertained as provided in section 7166) of the filing of said report and their determination thereon. Said notices shall be given through the United States mail by letter addressed to such person or corporation at the last known postoffice address of each person or corporation aforesaid. A certificate of the secretary of the board as to the fact of mailing said notice, affixed to a copy of said notice and recorded in the record book of said board of commission-

Notice.

Certificate.

HeinOnline -- 1923 458 1923

ers, shall be sufficient and conclusive evidence of such fact.

(13) Said board shall have power generally to do and perform all such other acts as shall be necessary or appropriate to fully carry out the purposes of this Act.' General powers.

Section 5. That Section 7177 of the Revised Codes of Montana of 1921, be, and the same is hereby, amended so as to read as follows:

"7177. VACANCIES. In case of a vacancy in the board of commissioners, from any cause, such vacancy shall be filed for the remainder of the term by appointment by the judge of the district court of the county in which the division or major portion thereof is situated. The appointee shall be an owner of land within the district and shall be a resident of the county in which the division of the district, or some portion thereof for which such commissioner so elected, is situated, and shall hold office until his successor is elected and qualified." Vacancies in board, how filled.

Section 6. That Section 7184 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended so as to read as follows:

"7184. QUALIFICATIONS OF ELECTORS. At all elections held under the provisions of this Act, except as herein otherwise expressly provided, the following holders of title, or evidence of title, to lands within the district, herein designated electors, shall be entitled to vote: Qualifications of electors.

1. All persons having the qualifications of electors under the constitution and general and school laws of the state;

2. Guardians, executors, administrators, and trustees residing in the state;

3. Domestic corporations, by their duly authorized agents.

In all elections held under this Act, each elector shall be permitted to cast one vote for each forty acres of irrigable land, or major fraction thereof, owned by such elector within the district, irrespective of the location of such irrigable lands within the tracts designated by the commissioners for assessment and taxation purposes, or within congressional subdivisions, platted lots or blocks, election precincts or district divisions, but any elector owning any less than forty acres of irrigable land shall be entitled to one vote. Until actual determination of the irrigable area under the plan of reclamation proposed is had, all land included within the boundaries of Who may vote.

HeinOnline -- 1923 459 1923

the district shall be deemed to be irrigable land for election purposes.

Voting by co-owners of land.

Where land is owned by co-owners, said owners may designate one of their number, or an agent, to cast the vote for said owners, and one vote only for each forty acres of irrigable land, or major fraction thereof, shall be cast by said co-owner or agent. Where land is under contract of sale to a purchaser residing within the state, such purchaser may vote on behalf of the owner of said land. When voting, the agent of a corporation, or of co-owners, or the co-owner designated for purpose of voting, or the purchaser of land under contract of sale, as the case may be, shall file with the secretary of the district, or with the election officials, a written instrument of his authority, executed and acknowledged by the proper officers of said corporation, or by said co-owners, or by the owner of such land under contract of sale, as the case may be, and thereupon such agent or co-owner, or purchaser, as the case may be, shall be deemed an elector within the meaning of this Act."

Section 7. That Section 7210 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Bonds, procedure to issue.

"7210. PETITION FOR BONDS AND ACTION THEREON. For the purpose of providing the necessary funds for constructing the necessary irrigation canals and works, including drainage works, and works for the generation and distribution of electrical energy within said district, and acquiring the necessary property and rights therefor, and for the purpose of acquiring by purchase, or otherwise, waters, water rights, canals, reservoirs, reservoir sites, and irrigation works, drainage works, and works for the generation and distribution of electrical energy, constructed or partially constructed, and for the purpose of meeting the expense theretofore incurred or to be thereafter incurred incident to such construction or acquisition of such works and property, including administrative, engineering and legal expenses, and for the assumption, as principal or guarantor, of indebtedness to the United States on account of district lands, and for the purpose of otherwise carrying out the provisions of this Act, and of providing a sum sufficient to pay the interest on all of such bonds for five years, or less, the board of commissioners of any district, heretofore or hereafter organized under the provisions of this Act, may authorize and issue the negotiable coupon bonds

HeinOnline -- 1923 460 1923

of the district, as and in the manner hereinafter provided. A sum sufficient to redeem or pay all, or any portion, of the existing indebtedness of said district, evidenced by outstanding bonds, delinquent interest coupons and accrued interest, or warrants, and accrued interest on both bonds and warrants, together with all delinquent and accrued interest, whether such indebtedness be due or not due, or which has or may hereafter become payable at the option of the district, or by consent of the bondholders, or by any lawful means, may be included as a portion of the necessary funds for which said bonds are authorized and issued.

Petition.

No bonds provided for in this section shall be authorized or issued by or on behalf of any irrigation district organized thereunder, and no contract shall be made with the United States as in Section 7174 provided, except upon a petition signed by at least sixty per cent in number and acreage of the holders of title or evidence of title to the lands included within said district. Such petition shall be addressed to the board of commissioners; shall set forth the aggregate amount of bonds to be issued, and the purpose or purposes thereof; shall have attached thereto an affidavit verifying the signatures to said petition; and shall be filed with the secretary of the board of commissioners. When bonds, however, are issued for the sole purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent and accrued interest, of such district, such bonds may be authorized and issued in the manner provided for by section 7226 of this code.

Commissioners to authorize issuance.

Upon the filing of such petition, the board of commissioners shall, by appropriate order or resolution, authorize and direct the issuance of the bonds of the district to the amount and for the purpose or purposes specified in the petition, fix the numbers, denominations, and maturity or maturities of said bonds; specify the rate of interest thereon; and whether payable annually or semiannually; designate the place of payment of said bonds and the interest coupons, within or without the State of Montana; prescribe the form of said bonds and interest coupons to be attached thereto; and provide for the levy of a special tax or assessment as in this Act provided on all the lands in the district for the irrigation and benefit of which said district was organized and said bonds are issued, or said contract is to made, sufficient in amount to pay the interest on and principal of said bonds when

HeinOnline -- 1923 461 1923

Federal contracts.

due and all amounts to be paid to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as in Section 7174 provided. If contract is to be made with the United States as in section 7174 provided, and bonds are not to be deposited with the United States in connection with such contract, the board of commissioners need not authorize the issuance of bonds, or if bonds are required in addition to such contract, may authorize bonds only for the amount needed in addition to such contract. Such order or resolution shall also provide for the confirmation proceedings in the district court hereinafter mentioned. Provided, however, that none of the proceedings mentioned herein shall be had or accomplished, or in any wise initiated or prosecuted, until all and singular the matters relating to the issuance of bonds for the district shall first have been submitted to and favorably acted upon by the irrigation district bond commission, pursuant to the requirements of sections 7216 as amended, 7217, 7218, as amended, and sections 7219 to 7225, inclusive, all of the Revised Codes, Montana, 1921; and provided further, that at any time the board of commissioners, or thirty per cent of the holders of title or evidence of title, in number and acreage, to the lands in any district shall have the right to petition the Irrigation District Bond Commission to investigate, inquire into, and pass upon the legality, feasibility or advisability of any proposed bond issue for irrigation districts now or hereafter organized under the provisions of Chapter 146, Laws 1909, and acts amendatory thereof and supplemental thereto. Said Irrigation District Bond Commission shall complete and thoroughly report on all matters relevant and pertinent to said issue not later than six months after receipt of petition therefor and said report shall be furnished in writing to petitioners.

Resolution, contents.

Proviso.

Report of bond commission.

Section 8. That Section 7212 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Form, term and issuance of bonds.

"7212. DETAILS RELATING TO BONDS. All bonds issued under the provisions of this Act shall be payable in gold coin of the United States, of the standard weight and fineness existing at the time of the issue; and shall run for a period not longer than forty years from their date, but may contain a clause providing for

HeinOnline -- 1923 462 1923

their prior redemption and payment, at the option of the board of Commissioners of the district, on any interest payment date after five years from their date. Instead of straight maturity bonds, bonds may be issued to mature serially at such times and in such amounts as the board of commissioners shall determine, but no bonds so issued shall run for a longer period than forty years from date of issue. Said bonds shall bear interest from their date until paid at a rate not to exceed six per centum per annum, payable annually or semi-annually, the instalments of interest to date of maturity of principal to be evidenced by appropriate coupons attached to each bond. Said bonds and interest coupon shall be payable at such place or places, within or without the State of Montana, as the board of commissioners shall prescribe. Such bonds shall be of such denomination or denominations, and in such form, as the board of commissioners shall prescribe. An issue of bonds is hereby defined to be all the bonds issued in accordance with a resolution or order of the board of commissioners. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of commissioners shall fix the date of said bonds, or may divide any issue into two or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the order or resolution authorizing it and prior to its delivery to a purchaser from the district.

Interest.

Date.

All bonds issued hereunder shall be signed by the president and attested by the secretary of the board under the corporate seal of the district, and each of the interest coupons to be attached to said bonds shall be executed by the original or engraved or lithographed facsimile signatures of said president and secretary. Each bond shall be signed, and each interest coupon shall be executed, by the president and secretary of the board of commissioners who may be in office at the date of said bond and coupons, or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district.

Execution.

The board of commissioners may provide for the registration of bonds in their discretion. The secretary of the board of commissioners and county treasurer, each shall keep a record of the bonds sold, or otherwise disposed of, their date, number, amount, maturity, or ma-

Registration.

HeinOnline -- 1923 463 1923

turities, to whom sold, rate of interest, and the place or places of payment thereof."

Section 9. That Section 7214 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Sale of bonds.

"7214. SALE OF BONDS, CANCELLATION. Bonds issued under the provisions of this Act shall be issued, negotiated, and sold by or under the direction of the board of commissioners, but shall never be sold for less than ninety per cent. of their par value and accrued interest thereon to date of delivery. The said board may sell said bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the purposes for which said bonds were issued.

Resolution of intention to sell.

Before making any sale the board shall, at a meeting by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least once a week for three successive calendar weeks in some newspaper in the county where the office of the board of commissioners is located, and in any other newspaper within or without the state at its discretion. The notice shall state that sealed proposals will be received by the board at its office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds, or any portion or portions thereof, to the highest responsible bidder or bidders; provided, however, that said board may reject any or all bids. In case no award is made, the board thereafter may either readvertise said bonds, or any part thereof, for sale or sell the same, or any part thereof, at private sale. Coupons evidencing unearned interest shall be detached and cancelled.

Notice.

Award.

Coupons.

Disposal of bonds.

Any bonds issued hereunder may, in the discretion of the board of commissioners, be issued direct in payment and satisfaction of the contract or purchase price of any irrigation works, canals, water, water rights, or other property constructed or acquired by or for the district, or may be deposited with the United States as in Section 7174 provided.

Any bonds which may have been authorized but which have not been sold or deposited as security for funds

HeinOnline -- 1923 464 1923

advanced or to be advanced, and against which the state, United States, or any other person, firm or croporation shall have no claim to or equity in, may be cancelled by the board of commissioners by appropriate resolution or order, and after the cancellation of said bonds the same shall not be sold or otherwise disposed of and shall be invalid and of no effect, and the board shall have no authority to replace such cancelled bonds without an authorization from the members of the district similar to that which provided for their issuance."

Section 10. That Section 7215 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

"7215. DELIVERY OF BONDS, AND DISPOSITION OF PROCEEDS OF SALE. In the event that bonds are sold for cash, they shall be delivered by the board of commissioners to the county treasurer of the county wherein the office of the district is located, who shall deliver them to the purchaser upon receipt of the purchase price therefor, and after making a complete record of the same. Delivery of the bonds sold may be made by the county treasurer to the purchaser at any place or places within or without the State of Montana, and said county treasurer may receive the proceeds of the sale of said bonds at said place or places of delivery. The county treasurer shall thereupon place the proceeds of said sale to the credit of said district; and the same shall be paid out by the county treasurer only upon the written order of the board of commissioners, signed by the president and secretary under the seal of the district. Said proceeds shall be expended for the purpose or purposes for which said bonds were issued, and for no other. Provided, in case any portion of the funds realized from the sale of bonds are not needed immediately for the purpose for which said bonds were issued, the Board of Commissioners whenever, in its judgment, the same may be to the best interests of the District, shall have the power and authority to direct the investment of such funds, or any portion thereof, in interest bearing securities of the United States, or of the State of Montana, or in interest bearing certificates of deposit of national or state banks approved by the State Superintendent of Banks; provided, however, that in the event of such deposit said banks shall first furnish an indemnity bond to be approved by said board of commis-

Delivery of bonds.

Disposal of proceeds.

Proviso.

Investment of funds, when.

HeinOnline -- 1923 465 1923

sioners and the State Superintendent of Banks. The county treasurer shall transfer to the credit of the district, and place to the credit of such fund or funds as the board of commissioners may direct, all interest received upon money or securities of the district intrusted to his care."

Section 11. That Section 7220 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Commission must authorize Expenditures.

"7220. NO EXPENDITURE WITHOUT CONSENT OF COMMISSION. Whenever the bonds of any irriga tion district have been certified as provided in this Act, no expenditures shall be made from the proceeds of such bonds, nor shall any liability to be met from such proceeds be incurred, until there shall have been filed with and approved by said commission such a schedule of proposed expenditures of such proceeds as may be necessary to set forth to the satisfaction of said commission the plan proposed for carrying out the purposes for which said bonds were authorized, or such of said purposes as the district may, at the time of filing such schedule, desire to proceed with; and no expenditures from the proceeds of said bonds shall be made for any purpose not specified in such approved schedule or for any approved purpose in excess of the amount allowed therefor in such schedule without the consent of said commission; nor shall any expense of any kind be incurred in excess of money actually provided by levy of assessment or otherwise."

Section 12. That Section 7224 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Expenses, how paid.

"7224. EXPENSES. All necessary expenses incurred in making the investigation and report in this Act provided for shall be paid as the commission may require, including the salaries and expenses of all necessary assistants, and including the expenses but not the salary of the state engineer, by the irrigation district whose property has been investigated and reported on by the said commission. During the progress of any work to be paid for from the proceeds of any bond issue certified as in this Act provided, the state engineer, on behalf of the Irrigation District Bond Commission herein authorized, shall make, or cause to be made, from time to time, at the expense of the district, such inspection of

Inspection during progress of works.

HeinOnline -- 1923 466 1923

the work as may be necessary to enable the state engineer to know that the plans approved by the commission are being carried out without material modification unless such modification has been approved by said commission. The benefit, however, of any services that may have been performed and any data that may have been obtained by any member of said commission or any other public official, in pursuance of the requirements of any law other than this Act, shall be available for the use of the commission herein provided for without charge to the district whose affairs are under investigation."

Section 13. That Section 7226 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Refunding bonds, procedure to issue.

"7226. ISSUANCE REFUNDING BONDS IRRIGATION DISTRICTS. Any irrigation district heretofore or hereafter created and organized under and by virtue of the provisions of Chapter 146 of the Laws of Montana of 1909, as amended, may, whenever deemed advisable and to its interest, issue its negotiable coupon bonds, to be denominated refunding bonds, for the purpose of redeeming or paying the indebtedness, or any portion thereof, of the district, whether represented by existing and outstanding bonds, interest coupons thereof, or warrants, or both, including accrued and unpaid interest on said bonds, coupons and warrants, and whether such indebtedness be due or not due, or which has or may hereafter become payable at the option of the district, or by consent of the bondholders or warrant holders, or both, or by any legal means, and whether such indebtedness be now existing or may hereafter be created, and there shall not be funds in the treasury of such district available for the payment of same.

Such bonds may be authorized and issued in one or more series, and if issued in more than one series, the bonds authorized to redeem or pay the existing and outstanding bonds, and accrued and unpaid interest thereon including interest coupons due and upaid, together with interest on such coupons, shall be issued in one series, and bonds authorized to redeem or pay the existing and outstanding warrants, and accrued and unpaid interest thereon, shall be issued in a separate series. If bonds sufficient to redeem or pay the entire existing indebtedness of the district, however evidenced, inclusive of

HeinOnline -- 1923 467 1923

bonds, warrants, and accumulated interest on same, are issued in one series, each bond in said series shall enjoy equal priority of lien. The amount of such refunding bonds to be issued under the provisions of this section, and following sections, shall first be determined by the board and entered in and upon the records of said district prior to the issuance of said refunding bonds.

Petition.

No refunding bonds for the purpose of redeeming or paying the existing and outstanding bonds, and accrued and unpaid interest thereon, or of redeeming or paying the entire existing indebtedness, in one series, of any district, shall be authorized and issued by or on behalf of such district, except upon a petition signed by at least a majority in number and acreage of the holders of title or evidence of title to the lands included within said district. Refunding bonds, however, for the purpose of redeeming or paying the existing and outstanding warrants of any irrigation district, may be authorized and issued by the board of commissioners of any such district either upon its own motion or upon petition to said board by members of the district. When such bonds are authorized and issued by said board upon petition by the members of the district, such petition (as to form and execution) and all proceedings for the authorization and issuance of such bonds (including the levy of a special tax or assessment to pay the same), shall conform to the requirements of Sections 7210 and 7212 of this code, as amended, and court confirmation of such proceedings shall be had in the manner provided for in Section 7211 of this code; provided, that where bonds shall be issued for the sole purpose of refunding outstanding warrants, the question of the issuance of such bonds must be submitted to and approved by the District Court whose approval shall be given only upon a finding by such Court of the legality of such warrants sought to be refunded. The application to the Court and the proceeding thereon shall be conducted in the manner provided for in Section 7211 of this Code, in so far as the same may be applicable. If so approved and confirmed, by the Court, the approval of the Irrigation District Bond Commission shall not be required."

Confirmation by court of proceedings.

Section 14. That Section 7227 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Form, execution and record of funding bonds.

"7227. REFUNDING BONDS; FORM, EXECUTION AND RECORD. Any bonds so authorized and issued

HeinOnline -- 1923 468 1923

as to form shall conform to the requirements of Section 7212 of this code, and shall be signed and the corporate seal affixed, and the coupons shall be executed, and a record of such bonds kept, as by said section required. The board of commissioners may provide, in their discretion, for the registration of such bonds by the county treasurer."

Section 15. That Section 7228 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Lien of refunding bonds.

"7228. LIEN OF REFUNDING BONDS. When any bonds are authorized and issued to redeem or pay the existing and outstanding bonds, and accrued and unpaid interest thereon, or when bonds are authorized and issued in one series for the purpose of redeeming or paying the entire existing indebtedness, including bonds and warrants and accumulated interest, of any such irrigation district, such bonds so authorized and issued shall constitute a lien upon the lands within said district, and said lands shall be subject to a special tax or assessment for the payment of the principal and interest of said bonds so authorized and issued, and such tax or assessment shall constitute a first and prior lien on said lands, as provided in Section 7213 of this code."

Section 16. That Section 7229 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Lien of bonds to refund warrants.

"7229. LIEN OF BONDS TO REFUND WARRANTS. Any bonds issued for the payment or redemption of the existing and outstanding warrants only of said district shall constitute a lien upon the lands within said district, subject to (1) the lien of any bonds then existing and outstanding, (2) the lien of any bonds issued in payment or redemption of existing and outstanding bonds, or (3) the lien of any bonds issued, in one series, in payment or redemption of the entire existing indebtedness, including bonds and warrants and accumulated interest on same; and any special tax or assessment for the payment of the principal and interest of said bonds shall be a lien upon the lands against which levied, subject to the lien of any special tax or assessment for the payment of the principal and interest of existing and outstanding bonds, and bonds issued to pay or redeem any existing and outstanding bonds, and bonds

HeinOnline -- 1923 469 1923

issued in one series to pay or redeem the entire existing indebtedness of said district."

Section 17. That Section 7230 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Refunding bonds, sale of.

"7230. SALE OF REFUNDING BONDS; CANCELLATION. Any bonds issued under the provisions of Section 7226 of this code, as amended, shall be authorized, issued, negotiated and sold by, or under the direction of, the board of commissioners, but shall never be sold for less than ninety per cent. of their par value and accrued interest thereon to the date of delivery, and the procedure for the sale of such bonds shall conform to the requirements of Section 7214 of this code, as amended, as to declaration of intention to sell, notice of sale and conduct thereof. In case no award is made, the board thereafter may either readvertise said bonds or any part thereof for sale, or sell the same or any part thereof at private sale. Any such bonds may, in the discretion of the board, be exchanged for the bonds and coupons, or warrants, or both, for the payment and redemption of which the same were issued, and in the event of an exchange such bonds shall be delivered and taken at their par value and accrued interest to the time of such exchange, and such exchange may be made by the board of commissioners at any time without the necessity of its declaring its intention to sell the same, or giving notice of sale thereof as provided in Section 7214 of this code. Coupons evidencing unearned interest shall be detached and cancelled. All district bonds or warrants redeemed under the provisions of this and foregoing sections of this code shall thereupon be cancelled by the county treasurer, and a record of such cancellation made in the records of his office.

Exchange of bonds when.

Cancellation.

Any refunding bonds unsold may be cancelled by the board of commissioners in the manner provided for in Section 7214 of this code as amended."

Section 18. That Section 7234 of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

Irrigable land chargeable alike.

"7234. ALL IRRIGABLE LANDS CHARGEABLE ALIKE. All irrigable lands in each irrigation district, except such lands as have been included within such district on account of the exchange or substitution of water, under the provisions of section 7206, shall pay

HeinOnline -- 1923 470 1923

at the same rate for all purposes for which said lands are charged; and except that whenever water used for the irrigation of any lands within an irrigation district shall be obtained by pumping to different elevations, the cost of maintenance, operation, and pumping to each separate elevation shall be apportioned and levied upon the lands lying under the ditch or ditches running from that particular elevation, in such manner as may be determined fair and equitable by the board of commissioners after considering the facts in each case. Such apportionment shall be made by the board of commissioners and included each year in the assessment provided for by Section 7235 of this code as amended. The amount of such assessment for maintenance, operation, and pumping of water to each separate elevation, whenever there are different elevations, shall be determined by the board of commissioners in such manner, and upon such notice to the persons interested in said district, as said board in its rules and regulations may provide; and provided further, that where contract shall have been made with the United States, the lands within the district, whether originally included or later annexed to the district, shall pay in accordance with the federal reclamation laws and the public notices, orders, and regulations issued thereunder, and in compliance with any contracts made by the United States with the owners of said lands; and in compliance further, with the contract between the districts and the United States; and in case of lands having appurtenant thereto a partial water right or partial rights in a system of irrigation other than that of the districts, the amounts payable shall be equitably apportioned."

Apportionment of cost of maintenance.

Federal contracts.

Section 19. That Section 7235, of the Revised Codes of Montana of 1921 be and the same is hereby amended so as to read as follows:

"7235. ANNUAL TAX LEVY — APPORTIONMENT WHEN TRACTS DIVIDED. On or before the second Monday in July each year the board of commissioners of each irrigation district organized hereunder shall ascertain the total amount required to be raised in that year for the general administrative expenses of the district, including the cost of maintenance and repairs, and the total amount to be raised that year for interest on and principal of the outstanding bonded or other indebtedness of the district, including any indebtedness incurred

Tax levy.

HeinOnline -- 1923 471 1923

under any contract between the district and the United States accompanying which bonds of the district have not been deposited with the United Satates as in Section 7174 provided, and shall levy against each forty-acre tract or fractional lot as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than forty acre tracts or in less than the platted lot, then against each such tract) of land in the district, that portion of the said respective total amounts so to be raised which the total irrigable area of any such tract bears to the total irrigable area of the lands in the district, so that each acre of irrigable land in the district shall be assessed and required to pay the same amount as every other acre of irrigable land therein, unless otherwise specifically provided.

Apportionment when land divided.

In the event that the ownership of any such forty-acre tract, or other subdivision of land in the district, shall be divided after a special tax or assessment against the same has been levied, each or either of the owners of such tract or subdivisions shall be entitled to have such special tax or assessment equitably apportioned to and against said divisions of such tract or subdivisions, so that each owner shall be enabled to pay such special tax or assessment against his portion of such tract or subdivision, and have the same discharged from the lien thereof.

Limit on tax for maintenance.

Not more than four dollars per acre, against each irrigable acre of land in the district, shall be levied in any one year on account of administrative expenses and cost of maintenance and repairs, but this provision shall not invalidate any warrant lawfully issued or to be issued; provided, however, that this limitation shall not apply to any district supplying water by means of any system other than a gravity system.

Cancellation of levy when bonds issued.

Whenever the board of Commissioners has provided for the payment of any indebtedness of the district by levy of a special tax or assessment, and thereafter makes provision for the payment of said indebtedness by the issuance of bonds, said board may cancel any portion or all of said levy theretofore made to raise funds to pay said indebtedness; and whenever said board has provided for the payment of any indebtedness of the district by the authorization of bonds and the levy of a special tax or assessment to pay the principal of and interest on said bonds, and thereafter cancels said issue

HeinOnline -- 1923 472 1923

of bonds as provided for in Sections 7214 and 7230 of this code, as amended, said board may cancel any portion or all of said levy theretofore made to raise funds to pay the principal of or interest on said bonds so cancelled, and refund to the respective persons paying the same the funds, if any, in the custody of the county treasurer collected for the purpose of meeting the principal of and interest on such bonds so cancelled.

Assessment of omitted lands.

Any land or lands which may for any reason have escaped assessment in any previous year or years may be assessed or listed for the omitted years and omitted charges, in any subsequent year at the time of the making of the assessment in and for such subsequent year. but no such assessment shall be made later than three years after the occurrence of such omission."

Section 20. That two additional sections to the Revised Codes of Montana of 1921, numbered 7235A and 7235B, be and they are hereby enacted to read as follows:

Irrigable area how determined.

"7235A. DETERMINATION OF IRRIGABLE AREA. For the purpose of determining the number of acres of irrigable lands in each forty-acre tract or fractional lot as designated by the United States Public survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than forty acre tracts or in less than the platted lot, then against each such tract) of land in the district, the board of commissioners of any irrigation district organized hereunder, whenever deemed advisable and at any time except as otherwise provided, may cause a careful topographical survey and map of said lands to be made, as well as a specific examination of the character of the soil of each such tract. Upon completion of such survey and maps, and examination, the board shall give notice that at a meeting of said board, to be held at the office of the board on a day to be fixed in said notice, said board will determine the irrigable area of each such tract of land in the district and that it will hear and consider any objection on the part of any land owner in the district to such determination and to adjustment of the irrigable area of said district or of any lands within any tract or subdivision thereof. It shall not be necessary to describe said tracts in said notice. Such notice shall be given by publication, once a week for two successive calendar weeks, in a newspaper of general circulation in the county where the office of the board is located, and

Notice of hearing of objections.

Publication.

HeinOnline -- 1923 473 1923

where lands of any irrigation district lie in more than one county, such notice shall also be published in a newspaper or newspapers of general circulation in each such county. The last publication of said notice shall be at least five days prior to the date fixed for said meeting.

Board to determine irrigable area.

At such meeting, the board shall proceed to determine and fix the number of acres in each tract or subdivision irrigable from the works or proposed works of the district, and shall hear all persons interested who may appear, and shall continue in session from day to day (exclusive of Sundays and legal holidays) as long as may be necessary and until said determination of irrigable area shall have been completed. The board shall hear all evidence offered, including maps and surveys caused to be prepared by it as well as maps and surveys prepared by any owner of lands. Upon such determination, the irrigable area so fixed shall become, and thereafter be, the acreage upon which any special tax or assessment shall be levied, and each irrigable acre shall pay at the same rate as every other acre of irrigable land in said district shall pay; and any special tax or assessment levied for any purpose shall be a lien upon the entire forty-acre tract or fractional lot as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than forty acre tracts or in less than the platted lot, then against each such tract) of land in the district of which said irrigable area forms a part, and said lien shall attach to said entire tract as of the first Monday of March in the year in which said special tax or assessment is levied.

Lien of tax.

Resolution fixing area.

Upon completing such determination, the board shall fix, by appropriate resolution or order, the total acreage and the irrigable acreage of each such tract or subdivision, and shall cause to be prepared a list of all lands in said district, which list shall contain an accurate description of each such forty-acre tract or fractional lot as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than forty acre tracts or in less than the platted lot, then against each such tract) of land in said district, the total acreage and the number of irrigable acres therein as so fixed and determined, and the name of the owner, or holder of title or evidence of title thereof, ascertained as provided in section 7166 of this code. Such list, when completed and adopted, shall be filed in the

Filing of list of irrigable land.

HeinOnline -- 1923 474 1923

office of the board of commissioners and shall remain there for public inspection. A certified copy of such resolution and list shall be filed with the county clerk and recorder of each county in which any portion of the lands in said district are situated; provided, however, there shall be omitted from such copy lands not situated in the county in which such copy is filed.

Non-irrigable land not to be taxed.

No special tax or assessment shall be levied against any forty-acre tract, or fractional lot as designated by the United States Public survey, or platted lot, if land is subdivided in lots and blocks (or where lands shall be owned in less than forty acre tracts or in less than the platted lot, then against each such tract) found by said board to contain no irrigable land; nor shall any lien created after the order of determination herein provided for attach to any such tract, nor shall the owner, or owners, of any tract or tracts have any vote or votes in any proceeding or election under the provisions of Chapter 146 of the Laws of 1909, or any amendment thereof, or act supplementary thereto, after the making of such order, unless his said land, or a portion thereof, be found by said board to contain an area irrigable from the works, or proposed works, of said district.

Refund of taxes.

Upon the determination provided for in this section, the board of commissioners shall have the power to refund any taxes paid, or cancel any unpaid taxes or assessments, levied upon an acreage in excess of that so fixed by said order of determination, and where necessary, may issue warrants therefor.

Petition for confirmation, procedure.

Within sixty days after such resolution adopting said list, the board of commissioners may petition the district court for confirmation of their acts in determining the irrigable area, as aforesaid, and in refunding or cancelling any taxes or assessments. The majority in number and acreage of the holders of title or evidence of title to lands in said district, ascertained as in this act provided, may, likewise, within such sixty-day period, petition the district court for review of the actions of the board of commissioners. But one of such proceedngs, if prosecuted to determination, shall be exclusive of the other. Upon such proceeding, the court may order any assessment of taxes upon any land or lands to be reduced or raised according to the irrigable area as found by the court, or taxes previously levied upon any area shown to be excessive, to be refunded or cancelled. The provisions of Section 7189 of this code, regarding the procedure as

Order of court.

HeinOnline -- 1923 475 1923

well as the right and time to appeal, shall apply to any proceeding instituted in pursuance of the provisions of this section; provided, however, that nothing in this section shall be deemed or construed to affect or impair the lien of any bonds issued by the district; and provided, further, that if confirmation proceedings are held and a certified copy of the order of confirmation be filed with the county clerk and recorder of the county in which any portion of said lands are situated, it shall not be necessary to file in said office the certified copy of the resolution and order of the board, or of the list, hereinabove provided for. Provided, however, that where districts have been established in order to co-operate with the United States under the federal reclamation laws heretofore or hereafter enacted, or under any act of congress, which shall permit of the performance by the United States of work in this State, for the purposes of construction of irrigation works, including drainage works, or for purchase, extension, operation, or maintenance of construction works, or for the assumption as principal or guarantor, of indebtedness to the United States on account of district laws, the determination of the irrigable area of the lands in said district may be made by the said Board of Commissioners in the manner in this Section provided or by the United States at the option of the latter, and, if the United States determines the irrigable area, the proceeding for the apportionment and distribution of the costs of the proposed works or improvements, hereinafter provided for in Section 7235B, shall not be had.

Proviso as to federal lands.

"7235B. SAME. Whenever a petition for the issuance of bonds of any irrigation district organized hereunder shall have been filed, as hereinbefore in Section 7210 of this code provided, the Board of Commissioners of such district shall examine, or cause to be examined, each forty-acre tract or fractional lot as designated by the United States Public Survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than forty acre tracts or in less than the platted lot, then against each such tract) of land in said district, and cause a careful topographical survey and map to be made, in the manner provided for in Section 7235A. Upon such examination, the board shall determine the number of irrigable acres in each such tract; and shall apportion and distribute the cost of the works or improvements for which said bonds are to be issued,

Examination of land by commissioners.

Survey and map.

Determination of irrigable area.

HeinOnline -- 1923 476 1923

over the tracts within said district according to the irrigable area in each of said tracts or subdivisions, so that each such irrigable acre shall be required to bear the same burden of such costs as each other irrigable acre in said district, and the special tax or assessment levied to meet the principal of and interest on said bonds so authorized, shall become a lien upon the entire tract of which such irrigable area forms a part or portion as of the first Monday in March of the year in which such special tax or assessment is levied, and the number of irrigable acres in each such tract as so determined shall not be diminished but may be increased during the term for which any such bonds may be issued or until the bonds shall be liquidated in full.

Proviso as to additional maps.

Provided, however, that if a proceeding for the determination, in whole or in part, of the irrigable area of the lands in said district has already been had, or a topographical survey or maps thereof prepared, or a court confirmation of said prior proceedings had, in part or in full, the said board may, in its discretion, adopt all or such portions of said prior proceedings; and in such an event, it shall not be necessary to cause an additional survey, or maps, or examination, of any of such tracts to be again made, or to re-determine the irrigable area of any such tract.

Board to fix irrigable acreage.

The board shall make such determination after hearing had and shall fix the total acreage and the irrigable acreage, and shall cause a list of such irrigable area to be made and filed and the proceedings of the board in connection with such determination, including said hearing and notice of said hearing, and order or resolution fixing the irrigable area and the preparation and filing of said list, shall conform to the requirements set forth in Section 7235A. At such hearing, the said board shall also determine the amount and rate per acre necessary to be levied against each irrigable acre in the district to meet the interest on and principal of said authorized bond issue, and any tax levied for such purposes shall be a lien upon the entire tract of which said irigable area forms a part. If any land owner in the district shall appear before the board at said time and pay in cash the amount fixed against his said land as its proportion of the amount found necessary for the purposes for which said bonds were authorized and are to be issued, his land shall be excluded from the lien of the bond issue and the amount of bonds intended to be issued shall be reduced by the

Resolution .

Determination of rate of levy.

HeinOnline -- 1923 477 1923

amount of such payment. Any person interested who shall fail to appear before the board at said meeting shall not thereafter be permitted to contest the proceedings of said board, or any part thereof, except upon special application to the court in the proceedings for the confirmation of said bonds and a showing of reasonable excuse for failure to appear before said board of commissioners.

Objections by land owners.

In case any such land owner makes objection to the proceedings of said board in determining the irrigable area in his own or any other tract of land, or the amount or rate per acre of the special tax and assessment to be levied against each irrigable acre in the district for the purposes of the proposed bond issue, and said objection is overruled by the board, such objection without further

Appeals.

proceedings shall be regarded as appealed to the District Court, and shall, with the other proceedings of said board at said meeting, be heard at the proceedings to confirm said bonds, as provided in Section 7211 of this code, and

Confirmation by court.

when so confirmed, said order overruling such objection and confirming the order of the board determining the irrigable area of each tract of land and apportioning the cost of the improvement thereto, shall become final, binding and conclusive upon said land owner and upon the district, unless appealed from as in said section 7211 provided.

Proviso as to reduction of acreage.

Provided, however, that whenever the irrigable area of the lands in any irrigation district shall have been determined and confirmed, no owner or holder of title or evidence of title to lands in said district, during the period of any bonds thereafter authorized shall be issued and outstanding, shall have the taxable acreage of his said lands fixed or adjudicated in the manner provided by Sections 7190, to 7194, inclusive, of this code, in such manner or to such extent as to reduce the acreage subject to the payment of such bonds or interest thereon, or in such manner as to affect the security of such bonds or interest thereon.

Section 21. This Act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

HeinOnline -- 1923 478 1923

CHAPTER 158.

An Act Defining the Meaning of "Property", "Value of Property", "Taxable Value" and "Assessed Value" and Other Expressions in the Limitations Upon Levying, or in Any Statute, Law, or Rule Imposing, Taxes in the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Taxable value, how ascertained.

Section 1. Wherever, by statute, rule, or law, it is or shall be provided that any tax shall or may be levied to the extent of a given number of mills on the property, within any County, or tax district or unit, or on the dollar, or on the value of such property, or on the taxable value or assessed value thereof, or similar expressions, or wherever it is or shall be provided, as aforesaid, that a tax may be levied not exceeding a given number of mills levied as aforesaid, or not exceeding a given percentage of the value, or taxable value, or assessed value of property, or similar expressions, the said expressions shall be taken to mean the value of the taxable property in such County, tax district, or tax unit, as ascertained or determined by taking a percentage of the true and full value, provided, or to be provided, by law, rule, or practice, for the purposes of taxation, unless a meaning otherwise expressly and clearly appears to the contrary.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 159.

An Act to Amend Section 180 of the Revised Codes of Montana of 1921, Relating to the Payment, Registry and Interest on State Warrants.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 180 of the Revised Codes of the State of Montana of 1921 be, and the same hereby is amended to read as follows:

State warrants to be paid when.

"It is the duty of the State Treasurer on the presentation of state warrants, regularly issued, to pay the same

HeinOnline -- 1923 479 1923

out of any funds available for such payment, and in the event that there are no funds available for such payment he must register each warrant in a book or register to be kept for the purpose, entering the date of issue, date of registration, name in whose favor warrant is drawn, the number and amount thereof, and he shall endorse on each warrant so registered, on its face "Presented for payment and not paid for want of funds, and registered in this office this ..... day of .....," inserting the date of registration, and he shall affix his signature as such treasurer thereto; and all warrants so registered and endorsed shall bear interest at the rate of six per cent. per annum until called for payment, after which date interest shall cease; and all warrants issued February 19, 1923, and thereafter shall be redeemed and paid in the order of their registration and in the manner set forth in Section 183 of this Code."

Endorsement and registration, interest rate.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1923.

CHAPTER 160.

An Act to Authorize and Provide for the Consolidation and Merging of the Corporate Existence and Government of the County of Silver Bow and All Cities and Towns Therein Into One Municipal Corporation and Government Under the Corporate Name 'City and County of Butte', Defining the Powers Thereof and Providing a Commission-Manager Plan of Government Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Scope of act.

Section 1. The provisions of this act shall apply to the County of Silver Bow and to all cities and towns therein after the question of its adoption shall have been submitted to the electors of the county and approved by a majority of those voting thereon as hereinafter provided. Upon the adoption of this act by the voters of the county, and the election and qualification of a commission thereunder, the separate corporate existence and government of the County of Silver Bow and of each and every city

HeinOnline -- 1923 480 1923

and town therein shall be deemed consolidated and merged into one municipal corporation and government under the corporate name "City and County of Butte", which shall have the powers and be governed in the manner provided by this act. As a political subdivision of the state the City and County of Butte shall have the status of a county, and for the purpose of representation in the state legislature, as provided by the constitution and laws of Montana, and for all other purposes, it shall replace and be the successor of Silver Bow County. Until otherwise provided by law the City and County of Butte shall constitute the Second Judicial District of the state.

Merger into "City and county of Butte".

POWERS.

Section 2. The inhabitants of the muncipality organized under the provisions of this act, as its limits are at the time of such organization or as they may thereafter be established as provided by law, shall be a body politic and corporate by name "City and County of Butte," and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; may contract and be contracted with; may acquire property within or without the boundaries of the municipality for any municipal purpose in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease or lease with privilege to purchase, and may sell, lease, hold, manage and control such property as the interest of the municipality may require; and, except as otherwise provided in this act, such municipality shall have and may exercise all other powers that now are or hereafter may be conferred on cities, towns and counties by the laws of this state. All powers of the municipality, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this act, or when not so prescribed, then as may be provided by ordinance or resolution of the commission.

Powers of municipality.

THE COMMISSION.

Section 3. Except as otherwise provided in this act all powers of the municipality shall be vested in a commission of seven members nominated and elected as hereinafter provided. The term of members of the commission shall be for two years and shall begin on the first day of July next following their election. If a vacancy occur in the commission, except as the result of a recall election, some eligible person shall be chosen by a major-

Creation of commission.

Vacancies.

HeinOnline -- 1923 481 1923

ity vote of the remaining members to fill the place for the unexpired term. Members of the commission shall be qualified electors of the municipality and shall not hold any other public office except that of notary public or member of the state militia. A member of the commission ceasing to possess any of the qualifications specified in this section shall immediately forfeit his office.

Qualifications.

Meetings.

Section 4. At two o'clock P. M. on the first day of July following a regular municipal election the commission shall meet at the courthouse in Butte and the newly elected members shall assume the duties of office. Thereafter the commission shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the clerk upon the written request of the president, the manager, or a majority of the members of the commission. Any such notice shall state the subject to be considered at the meeting and no other subject shall be there considered. All meetings of the commission, and of committees thereof, shall be open to the public and the rules of the commission shall provide that citizens of the municipality shall have a reasonable opportunity to be heard at any such meeting in regard to any matter considered thereat.

Meetings to be public.

General powers of commission.

Section 5. The commisison shall determine its own rules and order of business and shall keep a journal of its proceedings. It shall be judge of the election of its own members and, in such cases, shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers. It shall have power to compel the attendance of absent members, may punish its members for disorderly behavior and, by vote of not less than six members, may expel a member for disorderly conduct or the repeated violation of its rules; but no member shall be expelled unless notified of the charge against him and given an opportunity to be heard.

President, election and powers.

Section 6. At its meeting on the first day of July following a regular municipal election the commission shall choose one of its members as president and another as vice-president. The president shall preside at meetings of the commission and shall exercise the powers and perform the duties conferred and imposed by this act and the ordinances of the municipality. He shall be recognized as the official head of the municipality for all ceremonial purposes, by the courts for serving civil processes. and by the governor for purposes of military law.

HeinOnline -- 1923 482 1923

In time of public danger or emergency he shall, if authorized by vote of the commission, take command of the police, maintain order and enforce the law. If a vacancy occur in the office of president, or in case of his absence or disability, the vice-president shall act as president for the unexpired term or during the continuance of the absence or disability.

Clerk of commission.

Section 7. The director of finance shall be ex-officio clerk of the commission and shall either in person or by deputy keep the records of the commission and perform such other duties as may be required by this act or by the commission.

Quorum.

Section 8. A majority of the members elected to the commission shall constitute a quorum to do business but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the commission shall be necessary to adopt any ordinance, resolution, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present.

Voting.

Compensation of Commissioners and president.

Section 9. The commission may by ordinance provide compensation for its members to be paid in equal monthly or quarterly installments; but the total amount of any such compensation for each member, except the president, shall not exceed Six hundred ($600.00) Dollars per year. The compensation of the president shall not be less than that of other members of the commission and may be fixed at a rate not more than twenty per centum (20%) in excess of that provided for such other members. Any member absent from a regular or regularly called meeting of the commission, except on account of his own illness, shall forfeit two per centum (2%) of his annual compensation for each such absence. Absence from all regular meetings for a period of ninety days shall operate to vacate the seat of a member unless such absence be authorized by the commission. In addition to any compensation authorized by this section each member of the commission shall receive ten cents per mile for any distance, in excess of ten miles, necessarily traveled in going from and returning to his residence because of attendance upon a regular, or regularly called meeting of the commission.

Vacation of seat by absence.

HeinOnline -- 1923 483 1923

Ordinances, regulation of.

Section 10. Ordinances and resolutions shall be introduced in the commission only in written or printed form. All ordinances or resolutions, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, except as provided in the next succeeding section of this act. Ordinances making appropriations shall be confined to the subject of appropriations. No ordinance shall be passed until it has been read on three separate days, unless the requirement of reading on three separate days has been dispensed with by a vote of not less than six members of the commission. The final reading shall be in full unless a written or printed copy of the measure shall have been furnished to each member of the commission prior to such reading. The enacting clause of all ordinances passed by the commission shall be "Be it ordained by the City and County of Butte." The enacting clause of all ordinances submitted by the initiative shall be "Be it ordained by the people of the City and County of Butte."

Enacting clause.

Publication of ordinances.

Section 11. Ordinances may be revised, codified, rearranged and published in book form under appropriate titles, chapters and sections and such revisions and codification may be made in one ordinance containing one or more subjects. The publication of such revision and codification in book form as aforesaid shall be held to be a sufficient publication of the ordinance or several ordinances contained in such revision and codification. Any such publication of a revision or codification of ordinances in book form shall contain a certificate of the president and clerk of the correctness of such revision, codification and publication; and such book so published shall be received in evidence in any court for the purpose of proving the ordinance or ordinances therein contained, the same and for the same purpose as the original book, ordinances, minutes, or journals would be received.

Revision of ordinances.

Section 12. No ordinance, resolution or section thereof shall be revised or amended unless the new ordinance or resolution contain the entire ordinance, resolution or section thereof as revised or amended.

Ordinances, when effective.

Section 13. Ordinances making the annual tax levy appropriation ordinances, ordinances, and resolutions providing for local improvements and assessments, and emergency measures, shall take effect at the time indi-

HeinOnline -- 1923 484 1923

cated therein. All other ordinances and resolutions enacted by the commission shall be in effect from and after thirty days from the date of their passage. Ordinances adopted by the electors shall take effect at the time fixed therein or, if no time be specified, thirty days after the adoption thereof. An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, health or safety, in which the emergency claimed is set forth and defined in a preamble thereto. The affirmative vote of at least six members of the commission shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege, shall ever be passed as an emergency measure.

Emergency measures, how passed.

Section 14. Every ordinance or resolution upon its final passage shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the president and clerk. Within ten days after its final passage each ordinance or resolution shall be published at least once in such manner as the commission may by ordinance provide.

Recording ordinances.

THE INITIATIVE.

Section 15. Any proposed ordinance, except an ordinance making a tax levy, may be submitted to the commission by petitions signed by electors of the municipality equal in number to at least ten per centum (10%) of those who voted at the last regular municipal election. All petition papers circulated with respect to any proposed ordinance shall be uniform in character and shall contain the proposed ordinance in full.

Initiation of ordinances, procedure.

Section 16. If an initiative petition, or amended petition, be found sufficient by the clerk he shall so certify and shall submit the ordinance therein set forth to the commission at its next meeting, and the commission shall at once read and refer it to an appropriate committee, which may be a committee of the whole. Provision shall be made for public hearings upon the proposed ordinance before the committee to which it is referred. Thereafter the committee shall report the ordinance to the commission, with its recommendations thereon, not later than sixty days after the date on which such ordinance was submitted to the commission by the clerk. Upon receiving the ordinance from the committee the commission

Certificate by clerk.

Submission to commission.

Report.

HeinOnline -- 1923 485 1923

shall proceed at once to consider it and shall take final action thereon within thirty days from the date of such committee report.

Submission of ordinances to electors.

Section 17. If the commission fail to pass an ordinance proposed by initiative petition, or pass it in a form different from that set forth in the petition therefor, the committee of the petitioners hereinafter provided for may require that it be submitted to a vote of the electors either in its original form or with any change or amendment presented in writing either at a public hearing before the committee to which the proposed ordinance was referred or during the consideration thereof by the commission. If the committee of petitioners require the submission of the proposed ordinance to a vote of the electors they shall certify that fact to the clerk and file in this office a certified copy of the ordinance, in the form in which it is to be submitted, within ten days after final action on such ordinance by the commission.

Time for submission.

Section 18. Upon receipt of the certified copy of a proposed ordinance from the committee of the petitioners the clerk shall certify the fact to the commission at its next regular meeting. If a municipal election is to be held not more than six months or less than thirty days after the receipt of the clerk's certificate by the commission, such proposed ordinance shall be submitted to a vote of the electors at such election. If no such election is to be held within the time aforesaid the commission may provide for submitting the proposed ordinance to the electors at a special election to be held not sooner than thirty days after the receipt of the clerk's certificate. If no municipal election be held within six months as aforesaid, and the commission does not provide for a special election, the proposed ordinance shall be submitted to the electors at the first election held after the expiration of such six months. If, when submitted to the electors, a majority of those voting on a proposed ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the municipality.

Submission of amended ordinance.

Section 19. When an ordinance proposed by initiative petition is passed by the commission in a changed or amended form, and the committee of the petitioners require that such proposed ordinance be submitted to a vote of the electors as hereinbefore provided, the ordinance as passed by the commission shall not take effect until after such vote and, if the proposed ordinance so

HeinOnline -- 1923 486 1923

submitted, be approved by a majority of the electors voting thereon, the ordinance as passed by the commission shall be deemed repealed.

Submission of repealing ordinances.

Section 20. Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the commission as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published, and may be amended or repealed by the commission, as in the case of other ordinances.

THE REFERENDUM.

Referendum, procedure.

Section 21. The electors shall have power to approve or reject at the polls any ordinance passed by the commission, except an appropriation ordinance, or ordinance making a tax levy or an emergency measure, such power being known as the referendum. Ordinances submitted to the commission by initiative petition and passed by the commission without change, or passed in an amended form and not required by the committee of the petitioners to be submitted by a vote of the electors, shall be subject to the referendum in the same manner as other ordinances. If, within thirty days after the final passage of an ordinance, a petition signed by electors equal in number to at least ten per centum (10%) of those who voted at the last preceding regular municipal election be filed with the clerk requesting that the ordinance, or any specified part thereof, be either repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken. Referendum petitions shall contain the text of the ordinance, or part thereof, the repeal of which is sought.

Petition.

Contents of petition.

Certificate by clerk.

Section 22. If a referendum petition, or amended petition be found sufficient by the clerk he shall certify that fact to the commission at its next regular meeting and the ordinance or part thereof set forth in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until approved by the electors as hereinafter provided. Upon receipt of the clerk's certificate the commission shall proceed to reconsider the ordinance or part thereof and its final vote upon such reconsideration shall be upon the question "Shall the ordinance (or part of the ordinance) set forth in the referendum petition be repealed?" If upon such reconsideration the ordinance, or part thereof,

Commission to reconsider. ordinance.

HeinOnline -- 1923 487 1923

be not repealed it shall be submitted to the electors at the next municipal election held not less than thirty days after such final vote by the commission. The commission by vote of not less than six of its members may submit the ordinance, or part thereof, to the electors at a special election to be held not sooner than the time aforesaid. If when submitted to the electors any ordinance, or part thereof, be not approved by a majority of those voting thereon it shall be deemed repealed.

Submission to electors when.

Ballot title.

Section 23. Ordinances, or parts thereof, submitted to vote of the electors in accordance with the initiative and referendum provisions of this act shall be submitted by ballot title which shall be prepared in all cases by the director of law. The ballot title may be distinct from the legal title of any such proposed or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, or part thereof. The ballot used in voting upon any such ordinance, or part thereof, shall have below the ballot title the two following propositions, one above the other, in the order indicated: "For the ordinance" and "Against the ordinance." Immediately at the left of each proposition there shall be a square in which by making a cross mark (x) the elector may vote for or against the ordinance or part thereof. Any number of ordinances, or parts thereof, may be voted upon at the same election and may be submitted on the same ballot, but the ballot used for voting thereon shall be for that purpose only.

Voting.

Preliminary acts.

Section 24. In case a petition be filed requiring that an ordinance passed by the commission providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of the contract for such improvement, may be taken prior to the election.

INITIATIVE REFERENDUM AND RECALL PETITION

Signatures on petitions.

Section 25. The signature to initiative referendum or recall petitions need not all be appended to one paper, but to each separate petition paper there shall be attached an affidavit of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and num-

HeinOnline -- 1923 488 1923

ber, or other description sufficient to identify the place. There shall appear on each petition paper the names and addresses of five electors of the municipality, on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to the petition shall be as follows:

State of Montana, City and County of Butte. ss.

..... being duly sworn, deposes and says: That he is the circulator of the foregoing paper and that the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be. Affidavit.

Signed .....

Subscribed and sworn to before me this ..... day of ..... 19.....

.....

Notary Public.

Section 26. All petition papers comprising an initiative referendum or recall petition shall be assembled and filed with the clerk as one instrument. Within ten days after a petition is filed the clerk shall determine whether it is signed by a sufficient number of electors and shall attach thereto a certificate showing the result of his examination. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings. Assembly and filing of papers. Certificate of clerk.

Section 27. An initiative, referendum or recall petition may be amended at any time within ten days after the making of a certificate of insufficiency by the clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The clerk shall, within five days after such an amendment is filed, make examination of the amended petition and, if his certificate shall show the petition still to be insufficient he shall file it in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose. Amendment of petition.

ADMINISTRATIVE SERVICE.

Section 28. The commission shall appoint a manager who shall be the chief executive officer of the municipal- Appointment of manager.

HeinOnline -- 1923 489 1923

ity. He shall be chosen by the commission solely on the basis of his executive and administrative qualifications and need not when appointed be a resident of the municipality. No member of the commission shall, during the time for which elected, be chosen manager. The manager shall not be appointed for a definite term but shall be removable at the pleasure of the commission. In case the commission determine to remove the manager he shall, if he so demand, be given a written statement of the reasons alleged for the proposed removal and the right to be heard thereon at a public meeting of the commission prior to the date on which his final removal shall take effect, but pending and during such hearing the commission may suspend him from office. The action of the commission in suspending or removing the manager shall be final, it being the intention of this act to vest all authority and fix all responsibility for any such suspension or removal in the commission. In case of the absence or disability of the manager the commission may designate some responsible person to perform the duties of the office. The manager shall receive such compensation as may be fixed by the commission.

Removal or suspension.

Compensation.

Responsibility of manager.

Section 29. The manager shall be responsible to the commission for the proper administration of the affairs of the municipality placed in his charge and to that end shall appoint all officers and employees in the administrative service of the municipality, except as otherwise provided in this act and except as he may authorize the head of a department or office responsible to him to appoint subordinates in such department or office. Appointments by or under the authority of the manager shall be confined to citizens of the municipality, except in such specific cases as the commission may suspend this requirement, and shall be on the basis of the ability, training and experience of the appointees in the work which they are to perform. All such appointments shall be without definite term unless for temporary service not to exceed sixty days.

Appointments by.

Removal or suspension of officers or employees.

Section 30. Any officer or employes of the municipality appointed by the manager, or upon his authorization, may be laid off, suspended or removed from office or employment either by the manager or the officer by whom appointed. Verbal or written notice of lay-off, suspension or removal given to an officer or employee, or written notice left at or mailed to his usual place of

HeinOnline -- 1923 490 1923

residence, shall be sufficient to put any such lay-off, suspension, or removal into effect unless the person so notified shall, within five days of such notice, demand a written statement of reasons therefor and the right to be heard thereon before the manager. Upon such demand the officer making the lay-off, suspension or removal shall supply the person notified thereof with a written statement of the reasons therefor and the manager shall fix a time and place for the public hearing. Following the public hearing the manager shall either confirm the lay-off, suspension or removal as specified in the notice, reinstate the person so notified in the service, or make such other disposition of the matter as, in his opinion, the good of the service may require. The decision of the manager in any such case shall be final, and there shall be no appeal therefrom to any officer, body or court whatsoever. A copy of the written statement of reasons given for any lay-off, suspension or removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the manager, shall be filed as a public record in the office of the clerk.

Hearing.

Decision.

Filing.

Section 31. Neither the commission nor any of its committees or members shall direct or request the appointment of any person to, or his removal from office, or employment by the manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the municipality. Except for the purpose of inquiry, the commission and its members shall deal with that portion of the administrative service for which the manager is responsible solely through the manager and neither the commission nor any member thereof shall give orders to any subordinate of the manager either publicly or privately. Any violation of the provisions of this section by a member of the comission shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.

Restrictions on power of commission.

Penalty.

Section 32. It shall be the duty of the manager to act as chief conservator of the peace within the municipality; to supervise the administration of the affairs of the municipality; to see that the ordinances of the municipality and the laws of the state are enforced; to make such recommendations to the commission concerning the affairs of the municipality as may seem to him desirable;

General duties.

HeinOnline -- 1923 491 1923

to keep the commission advised of the financial conditions and future needs of the municipality; to prepare and submit to the commission such reports as may be required by that body; and to perform such other duties as may be prescribed by this act or be required of him by ordinances or resolution of the commission.

Who entitled to be present at meetings.

Section 33. The manager, the directors of all departments, and all other officers of the municipality shall be entitled to be present at all sessions of the commission. The manager shall have the right to take part in the discussion of all matters coming before the commission and the directors and other officers shall be entited to take part in all discussions of the commission relating to their respective departments and offices.

Departments enumerated.

Section 34. There shall be a department of law, a department of finance, a police department, a department of public works, a department of health, a fire department and such other departments and offices as may be established by ordinance. The commission may change or abolish any department or office established by ordinance and may prescribe, combine, distribute or discontinue the functions and duties thereof. Additional functions and duties may be assigned by ordinance to departments and offices established by this act, but no function or duty assigned by this act to any such department or office shall be discontinued or assigned by any other department or office. If the manager so recommend, and the commission so authorize, the manager may appoint one person to act, or may himself act, as the head of two or more departments or offices; but the department of law shall not thus be joined with any other department, nor shall the manager be authorized to act as head of the department of finance or of any office therein other than that of purchasing agent or assessor.

Changes in departments.

Employment of assistants.

Section 35. The number of assistants and other subordinates to be employed in or by each administrative department or office shall be fixed by the commission, but the commission may authorize the manager to determine the number of such assistants and subordinates in and for a specified department or office subject to the appropriations made thereto.

List of employees to be kept.

Section 36. The director of finance shall maintain in his office a list of all persons in the administrative service of the municipality, showing in connection with each

HeinOnline -- 1923 492 1923

name the position held, the date of appointment, the character of employment, and the rate of compensation. Each appointing officer shall promptly transmit to the director of finance such information regarding his department or office as may be necessary to keep this list accurate in all respects at all times. The treasurer shall not pay, nor shall the director of finance issue any warrant for the payment of, any salary or compensation to any person whose name does not appear upon such list, nor shall payment be made at a rate other than that specified on such list. Any sums paid contrary to the foregoing provisions of this section may be recovered from any officer paying or authorizing the payment thereof or from the surety on his official bond. If through the failure of any officer to give information to the director of finance as required in this section, or through omission or error in such information, payment is made to any person whose name should not be on such list, or payment is made in excess of the amount which any person whose name is rightfully on the list should receive, then the amount of any such payment or excess payment may be recovered from the officer by reason of whose failure, omission or error the payment or excess payment was made, or from the surety on his official bond.

Treasurer not to pay salaries when.

Section 37. The compensation of officers and employees in the administrative service of the municipality shall be fixed by ordinance, but all positions in such service except those of heads of departments and heads of offices not included within regular departments shall, for purposes of compensation, be graded and classified by the manager according to duties and responsibilities. The commission shall by ordinance establish a schedule of compensation for the positions so graded and classified which shall prescribe uniform compensation for like service as determined by the grading and classification of the manager. Such schedule of compensation may establish a minimum and maximum for any grade, and an increase in compensation within the limits provided for any grade may be granted by the manager upon the basis of efficiency and seniority.

Compensation of employees, how fixed.

Section 38. The manager may appoint a board of citizens qualified to act in an advisory capacity to the head of any specified department or office. The members of all such boards shall serve without compensation and it shall be their duty to consult and advise with the officer

Citizens advisory board.

HeinOnline -- 1923 493 1923

in charge of the department or office for which they are appointed but not to direct the conduct of such department or office. Public meetings of such boards may be called for the consideration of the affairs of the department or office for which they are appointed.

Investigation of conduct of departments.

Section 39. The Commission, the manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any department or office of the municipality and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. It shall be the duty of the manager to designate a police officer to serve such subpoenas. The Commission shall provide by ordinance the penalty or penalties for contempt in refusing to obey any such subpoena, or to produce such books, papers and other evidence, and shall have the power to punish any such contempt in the manner provided by ordinance.

Subpoenas.

DEPARTMENT OF LAW.

Director of law.

Section 40. The department of law shall be in charge of a director who shall be a resident elector of the City and County of Butte, at least twenty-five years of age, and a member of the bar of this State in good standing. He shall have all the powers and, either personally or by such assistants as he may designate, shall perform all the duties that now are or hereafter may be prescribed for county attorneys and public administrators and, in addition thereto, he shall be the chief legal adviser of and attorney and counsel for the municipality and of all departments and offices thereof and shall perform such other duties as may be required by the commission.

DEPARTMENT OF FINANCE.

Director of finance, powers.

Section 41. The director of finance shall have charge of the administration of the financial affairs of the municipality, including the keeping and supervision of all accounts; the custody and disbursement of municipal funds and moneys; the making of special assessments; the assessment of property for taxation; the issuance of licenses; the collection of license fees; the control over expenditures; the purchase, storage and distribution of supplies needed by the municipality; and such other duties as the commision may by ordinance require. He shall also have all powers and perform all duties imposed

HeinOnline -- 1923 494 1923

upon county clerks, recorders and auditors by general law.

Statement of revenues.

Section 42. The director of finance shall prepare and submit to the commission each month a summary statement of revenues and expenses for the preceding month, detailed as to appropriations and funds in such manner as to show the exact financial condition of the municipality and of each department, and office thereof as of the last day of such month.

Division of audit and account.

Section 43. There shall be in the department of finance a division of audit and accounts of which the director of finance shall himself be the head. As head of such office he shall be charged with keeping the books of financial account for all departments and offices of the municipality and, whenever practicable, such books and accounts shall be kept in the office of the division of audit and accounts. Report shall be made daily to the division of audit and accounts by each department and office showing the receipt of all moneys and the disposition thereof.

Audit of books of officers when made.

Section 44. Upon the death, resignation, removal or expiration of the term of any officer of the municipality the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report to the manager and the commission. Either the commission or the manager may at any time provide for an examination or audit of the accounts of any officer or department of the municipal government. In case of the death, resignation or removal of the director of finance, the manager shall cause an audit to be made of his accounts. If, as a result of any such audit, an officer be found indebted to the municipality the director of finance, or other person making such audit, shall immediately give notice thereof to the commission, the manager and the director of law and the latter shall forthwith proceed to collect such indebtedness.

Suit to recover.

Division of the treasury.

Section 45. There shall be in the department of finance a division to the treasury, the head of which shall be treasurer of the municipality, and who shall also perform the duties required of county treasurers by general law. All moneys received by any officer or employee of the municipality for or in connection with the business of the municipality shall be paid promptly into the treasury. The commission shall by ordinance provide for the prompt

HeinOnline -- 1923 495 1923

and regular payment of such money into the treasury and shall also, in the manner hereinafter provided, designate the banking institutions with which it shall be deposited.

Purchasing agent.

Section 46. There shall be in the department of finance a division of purchases and supplies at the head of which there shall be a purchasing agent. The purchasing agent shall make all purchases for the municipality in the manner, and with such exceptions, as may be provided by ordinance and shall, under such regulations as may be provided by ordinance, sell all property, real and personal, of the municipality not needed for public use or that may have become unsuitable for use. He shall have charge of such storerooms and warehouses of the municipality as the commission may by ordinance provide.

Supplies, how purchased.

Section 47. Before making any purchase or sale the purchasing agent shall give opportunity for competition, under such rules and regulations as the commission may by ordinance establish. Supplies required by any department or office of the municipality may be furnished upon requisition from the stores under the control of the purchasing agent, and whenever so furnished shall be paid for by the department or office furnished therewith by warrant made payable to the credit of the stores account of the division of purchases and supplies. The purchasing agent shall not furnish any supplies to any department or office unless there be to the credit thereof an available unencumbered appropriation balance sufficient to pay for such supplies.

Payment.

Division of Assessment.

Section 48. There shall be in the department of finance a division of assessment the head of which shall be the assessor. The assessor and his deputies shall have the powers, qualify in the manner, and perform the duties prescribed for county assessors and deputy assessors by general law.

Assessor to install tax maps.

Section 49. It shall be the duty of the assessor in assessing property within the municipality to install tax maps and land value maps and to record separately the value of each parcel of land and the value of any building or structure thereon. The tax maps shall show the dimensions of each separately assessed parcel of land, and the land value maps shall show the value per front foot, according to a standard unit of depth, of all land abutting on any street, public way or place within the municipality; but as to acreage tracts and land which does not

HeinOnline -- 1923 496 1923

so abut the land value maps shall show the value per acre. All such maps and other records of the assessor shall be open to public inspection at all reasonable times.

Special assessments.

Section 50. The assessor shall also be in charge of the preparation of all special assessments for public improvements; the giving of notice of such assessments to property owners; and the certification of all unpaid assessments to the director of finance.

FINANCIAL PROCEDURE.

Fiscal year.

Section 51. The fiscal year of the municipality shall begin with the first day of July and shall end with the next succeeding thirtieth day of June. On or before the 15th day of May of each year the manager shall prepare and submit to the commission a budget estimate of the expense of conducting the affairs of the municipality for the ensuing fiscal year. The budget shall be compiled from detailed information obtained from the several departments and offices on uniform blanks furnished by the manager. The classification of the estimate shall be as nearly uniform as possible for the main functional divisions of such departments and offices and shall give the following information:—

Budget.

Estimates, how classified.

(1) A detailed estimate of the expense of conducting each department and office of the municipality for the ensuing fiscal year;

(2) Expenditures for corresponding items for the current and last preceding fiscal years with reasons for increases or decreases recommended as compared with appropriations for the current year;

(3) The value of supplies and materials on hand at the date of the preparation of the estimate;

(4) The total amount of general municipal debt outstanding and also the total debt outstanding of each special district, together with a schedule of maturities of bond issues;

(5) A statement of the amounts which should be appropriated to the sinking fund,

(a) For interest on the general municipal debt,

(b) For paying off any serial bonds maturing during the year,

(c) For the aggregate of the equal installments required to be appropriated annually during the life of all other bonds of the municipality in order to accumulate a fund sufficient to pay off such bonds at maturity,

HeinOnline -- 1923 497 1923

(d) For similar items on account of the principal and interest of the debt of each special district.

(6) A separate statement indicating any deficiency in the sinking fund and the amount to be appropriated to replace such deficiency as a whole, or the amount of the equal annual installment thereof to be appropriated each year for a specified number of years in order that obligations based on the sinking fund shall be retired as they mature;

(7) An estimate of the amount which should be appropriated for contingent or emergency purposes;

(8) An itemization of all anticipated revenue of the municipality from sources other than taxes;

(9) An estimate of the amount of money to be raised from taxes which, with revenue from other sources, would be necessary to meet the expenditures proposed;

(10) Such other information as the manager may think desirable or as may be required by the commission.

Printing of estimate.

The commission shall provide for printing a reasonable number of copies of the estimate thus prepared for distribution to citizens. Copies shall also be furnished to the newspapers of the municipality and to each library thereof which is open to the public.

Appropriation ordinance.

Section 52. Upon receipt of the budget estimate the commission shall at once prepare an appropriation ordinance using the budget estimate as a basis. The form, arrangement and itemization of the appropriation ordinance shall be determined and prescribed by the director of finance. Provision shall be made by the commission for public hearings upon the appropriation ordinance before the commission sitting as a committee of the whole. Following the public hearings the appropriation ordinance shall take the same course in the commission as other ordinances but shall not be passed before the first meeting of the commission in July. Upon final passage the appropriation ordinance shall be published in the manner provided for other ordinances.

Publication.

Section 53. After the passage of the annual appropriation ordinance by the commission, and as soon as may be after the state board of equalization shall have transmitted to the municipality its statement of any changes made in the assessment book of the municipality or of any assessment contained therein, the director of finance shall report in writing to the commission the rate of tax levy required for the municipality in general, and for

Report of tax levy.

HeinOnline -- 1923 498 1923

each special district, to produce an amount of revenue which, together with estimated revenue from other sources, will equal the appropriations made for the municipality as a whole and for each such district. Upon receipt of the report of the director of finance, the commission shall by ordinance levy taxes upon all the taxable property in the municipality, and upon each special district thereof, at the rate specified in such report unless, by amendment of the appropriation ordinance and a reduction of the appropriations the levy of a lower rate be made possible; but no such amendment shall reduce the appropriations made to the sinking fund as recommended by the manager. If the commission determine by amendment and reduction of its appropriations to provide for a lower rate of tax levy the director of finance shall, upon the completion of such amendment and reduction, likewise report to the commission the rate of tax levy required under such amended ordinance, and the commission shall not levy taxes at any other rate than that reported to be required by the director of finance in accordance with the provisions in this section.

Levy of tax.

Section 54. No ordinance making the annual tax levy and fixing the rate to be levied upon all property within the municipality at more than fifteen mills on each dollar of the taxable valuation shall be passed except by the affirmative vote of at least six members of the commission, and such tax levy made by the commission shall not exceed twenty mills unless the question of levying a higher tax rate for a specified year or years be submitted to the electors of the municipality and approved by a majority of those voting thereon; but in no case shall such total tax levy be more than twenty-five mills.

Limitation on tax levy.

Section 55. The commission may by ordinance designate clearly specified districts in or for which special services are to be performed and may levy upon the property in any such district such tax, in addition to any taxes authorized by section 54 of this Act, as may be necessary to pay the cost of such special service or services. Any such additional tax levied under the authority of this section upon the property within any district shall not exceed ten mills unless the portion of the annual tax levy ordinance providing therefor shall have been separately voted on and passed by the affirmative vote of at least six members of the commission, and shall not exceed fifteen mills unless the question of levying a

Creation of special districts.

Limit on special taxes.

HeinOnline -- 1923 499 1923

higher rate for a specified year or years shall have been submitted to the electors of the district and approved by a majority of those voting thereon; but in no case shall such additional levy be more than twenty mills.

Tax limits, application of.

Section 56. The tax limits provided by sections 54 and 55 of this act shall apply only to taxes levied for purposes other than to provide for paying the interest and principal of the debt of the municipality or any district thereof. Taxes required by this act to be levied on account of the debt of the municipality, or any district thereof, shall not be affected by such limits nor shall such taxes be considered in determining the limits of taxation fixed by Sections 54 and 55 of this act.

Collection of taxes.

Section 57. All taxes levied by the municipality shall be collected and payable in the manner, at the time and under the penalties prescribed by law for the collection and payment of state and county taxes.

Continuation of existing special districts.

Section 58. The district comprised within the boundaries of any city, town or district existing within the county at the time of the adoption of this act by the electors thereof shall, for the purpose of paying the interest and principal of any debt incurred by such city, town or district prior to such adoption, be continued as a special district until such debt shall have been paid, and the commission shall, in the annual tax levy ordinance, levy upon the property within each such district such tax, in addition to all other taxes, as the director of finance shall report to be necessary to provide for paying the interest on each such debt as it falls due and the principal thereof as it matures, and no other property within the municipality shall be taxable or made liable for the payment of any such debt. The commission shall likewise provide in the annual tax levy ordinance for the levy of such tax upon all property within the municipality as the director of finance shall report to be necessary to provide for paying the interest as it falls due and the principal as it matures of any debt of the municipality as a whole. The tax levy for the debt of the municipality as a whole, and the tax levy for the debt of each such district, shall each be a separate levy and shall be distinct from and in addition to all other tax levies, and the proceeds of each such tax levy shall be placed in a separate fund for the payment of the interest and principal of the debt for which the tax was levied.

Tax levy for.

HeinOnline -- 1923 500 1923

Effect of general tax laws.

Section 59. The provisions of any general law authorizing counties, cities or towns to levy taxes for a specified purpose and at not to exceed a specified rate shall not limit the City and County of Butte in its expenditures for any purpose so specified. Any tax for county purposes required by the general laws of Montana to be levied by counties shall be included in the tax rate fixed for all property within the municipality, and the commission shall include in the annual appropriation ordinance an appropriation for the purpose for which such tax is required to be levied in the amount which the director of finance estimates that such tax would yield if separately levied.

Transfer of balances.

Section 60. Upon the written recommendation of the manager the commission may at any time transfer an unencumbered balance of an appropriation made by the commission to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same department or office.

Money, how drawn from treasury.

Section 61. No money shall be drawn from the treasury of the municipality, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance as passed by the commission, or of such ordinance changed as authorized by the next preceding section of this act. At the close of each fiscal year any unencumbered balance af an appropriation shall revert to the fund from which appropriated and shall be subject to re-appropriation; but appropriations may be made by the commission, to be paid out of the revenues of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

Reversion of balances.

Separate accounts.

Section 62. Accounts shall be kept for each item of appropriation made by the commission, and every warrant on the treasury shall state specifically against which of such items the warrant is drawn. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof.

HeinOnline -- 1923 501 1923

Claims payable by warrant.

Section 63. No claim against the municipality shall be paid except by means of a warrant on the treasury issued by the director of finance. The director of finance shall issue no warrant for the payment of a claim unless the claim be evidenced by a voucher approved by the head of the department or office for which the indebtedness was incurred, and each such officer and his surety shall be liable to the municipality for all loss or damage sustained by reason of his negligent or corrupt approval of any claim.

Vouchers.

Examination of pay rolls.

Section 64. The director of finance shall examine all payrolls, bills and other claims and demands against the municipality and shall issue no warrant for payment unless he finds that the claim is in proper form, correctly computed and duly approved; that it is legally due and payable; that an appropriation has been made therefor which has not been exhausted; and that there is money in the treasury to make payment. He may investigate any claim and for that purpose may summon before him any officer, agent or employee of the municipality, any claimant or other person, and examine him upon oath or affirmation relative thereto, and if he finds a claim to be fraudulent, erroneous or otherwise invalid, he shall not issue a warrant therefor. If the director of finance issue a warrant on the treasury authorizing payment of any claim in contravention of the provisions of this section he and his sureties shall be individually liable to the municipality for the amount of such warrant if paid.

Certificate of director before making contracts.

Section 65. No contract, agreement or other obligation, other than contracts pertaining to work or improvements to be paid for by special assessments, involving the expenditure of money out of appropriations made by the commission shall be entered into, nor shall any order for such expenditure be valid, unless the director of finance shall first certify to the commission that the money required for such contract, agreement or obligation is in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. The certificate of the director of finance shall be filed and made a matter of record in his office, and the sum so certified as being in the treasury shall not thereafter be considered unencumbered until the municipality is discharged from the contract, agreement or obligation.

What to be credited to appropriations.

Section 66. All unencumbered moneys actually in the treasury to the credit of the appropriation from which

HeinOnline -- 1923 502 1923

an obligation is to be paid, and all moneys applicable to its payment that, before the maturity thereof, are anticipated to come into the treasury to the credit of such appropriation from taxes or assessments; from sales of service, products or by-products of any municipal undertaking; from the sale or lease of lands or other property: and from the sale of bonds lawfully authorized at the date of the certificate of the director of finance shall, for the purpose of such certificate, be deemed in the treasury to the credit of the appropriation for which the obligation is to be paid.

Contracts void when.

Section 67. All contracts, agreements or other obligations entered into, all ordinances and resolutions passed, and orders adopted, contrary to the provisions of section 65 and 66 of this act shall be void, and no person whatever shall have any claim or demand against the municipality thereunder, nor shall the commission or any officer of the municipality waive or qualify the limitations fixed by such sections, or fasten upon the municipality any liability whatever in excess thereof.

Designation of banks as depositories.

Section 68. On or before the first day of August of each year the commission shall designate the banks subject to state or national supervision in which the funds of the municipality shall be deposited. In designating such banks the commission shall specify the maximum amount of municipal funds that may be kept at any time in each. Unless a bank designated as a depository shall elect to deposit securities with the treasurer, as provided in the next succeeding section, it shall give good and sufficient bonds, with sureties to be approved by the commission, conditioned for the safe keeping and payment of the municipal funds deposited therewith and the interest thereon. Any such bonds of a depository shall be in the aggregate equal to the amount designated by the commission as the maximum of municipal funds which may at any time be kept by such depository.

Bonds.

Deposit of securities.

Section 69. In lieu of the surety bonds specified in the next preceding section any bank designated as a depository of city funds may deposit with the treasurer bonds of the class and kind in which, by the provisions of this act, the sinking fund of the municipality may be invested. Bonds so deposited shall be in an amount equal to the amount of municipal funds permitted at any time to be deposited with such bank, shall be approved by the com-

HeinOnline -- 1923 503 1923

mission and shall be accompanied by proper assignment, to the end that the bank so depositing and assigning such bonds will safely keep and pay over to the treasurer, or his order, on demand and free of exchange, all moneys at any time deposited therein with interest thereon at the rate agreed upon, and that in case of default on the part of such bank the commission shall have power and authority to sell such bonds or so much thereof as may be necessary to realize the full amount of the funds deposited therein. The bank shall be entitled to interest on the securities so deposited with the treasurer, when paid, and to the return of the securities at the termination of such trust so long as the bank is not in default. With the approval of the commission a bank may at any time substitute other like securities of equal value for those so deposited.

Interest on securities.

New bonds may be required.

Section 70. Whenever for any cause the commission shall deem the bonds or securities of any bank insufficient security for the municipal funds deposited or likely to be deposited therein the commission shall require new bonds to be given or new securities to be deposited with the treasurer. If any bank shall fail promptly to execute and present such new bonds, or deposit such new securities, the treasurer shall at once withdraw all deposits therefrom and no further deposit of municipal funds shall be made therein until such bank shall have been redesignated by the commission as a depository.

Continuation of security.

Section 71. All surety bonds given by a bank in accordance with the provision of this act shall continue in force so long as funds of the municipality deposited therein shall be unpaid. Nothing herein provided shall impair the rights and remedies of the municipality on such bonds under the laws of the state. Bonds and other securities given by banks in accordance with this act shall be entered in a record to be kept for that purpose by the director of finance and deposited with the treasurer for safe keeping. The record of such bonds and securities kept by the director of finance, or copies thereof certified by that officer, shall be competent and prima facie evidence of the contents and tenor thereof.

Deposit of funds.

Section 72. All funds received by the treasurer shall be deposited by him in the designated banks in the name of the municipality subject to the order of the treasurer, and shall be distributed among the designated banks as

HeinOnline -- 1923 504 1923

nearly as may be in proportion to the several maximum amounts which they have been authorized to receive by the commission.

Interest on daily balances.

Section 73. Banks designated as depositories shall pay interest on daily balances of municipal funds at a rate approved by the commission which shall in no case be less than two and one-half per centum (2½%). The interest due on such deposits shall be paid to the treasurer by check on the last day of each quarter of the fiscal year. If the treasurer shall at any time receive, or have in any bank, funds which will probably remain on deposit three months or longer he may, with the approval of the commission, either take therefor certificates of deposit from a designated depository, payable to his order on demand, and bearing a higher rate of interest, or invest such funds in any bonds maturing within six months in which the sinking fund of municipality may be invested. The treasurer shall make a monthly statement to the director of finance of the municipal funds in each bank, and the interest received thereon, as of the last day of each month, and the director of finance shall include such information in his monthly statement to the commission required by section 42 of this act.

Funds payable on check.

Section 74. No bank receiving funds of the municipality on deposit shall have authority to pay out any such money except upon checks drawn upon that bank, signed by the treasurer.

Liability of treasurer.

Section 75. When the funds of the municipality are deposited and kept in designated banks according to the provisions of this act the treasurer and the sureties on his official bond shall be exempt from all liability for the loss of any funds so deposited if such loss is caused by the failure, bankruptcy, or any other act or default of such banks, but the want of care or due diligence on the part of the treasurer or commission in protecting the municipality against loss, shall not exempt the treasurer, the members of the commission or sureties on their respective bonds from liability. Nothing herein provided shall deprive the municipality of any right or remedy against any defaulting bank or against its officers or stockholders.

Limitation on indebtedness.

Section 76. The City and County of Butte shall not become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggre-

HeinOnline -- 1923 505 1923

gate exceeding five per centum (5%) of the value of the taxable property therein as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of the municipality shall be void. Bonds, notes, or registered warrants on the treasury, may be authorized by the commission to be issued during the first five months of the fiscal year in anticipation of the collection of taxes for such year and shall not be deemed the creation of a debt within the meaning of this section; but any such bond, note or warrant so authorized and issued shall specify that it is payable solely out of the revenues of the fiscal year in which issued, and before the close of such year, shall not bear a higher rate of interest than six per centum (6%) and the total amount authorized and issued in any fiscal year shall not, in the aggregate, be more than thirty-five per centum (35%) of the total appropriations of the municipality for such year.

Limit on interest.

Borrowing money.

Section 77. The City and County of Butte may borrow money for any municipal purpose to the extent and in the manner provided by the constitution and laws of Montana for the borrowing of money by counties. Any debt of the county or any district thereof outstanding at the beginning of the first fiscal year after the adoption of this act by the electors of the county may be funded, or refunded, by the issuance of bonds for such period, or periods, not exceeding twenty years as the commission may authorize, and thereafter the debt so funded or refunded, and any debt subsequently incurred, shall be paid as it becomes due without refunding.

Appropriation to sinking fund.

Section 78. An appropriation to the sinking fund of the municipality at least equal to the amount, or amounts, estimated by the manager to be required for that purpose in conformity with subdivisions (5) and (6) of section 51 of this act, shall be included in each annual appropriation ordinance passed by the commission. If, for any reason, the commission fail to include such an appropriation in its annual appropriation ordinance, or shall appropriate to the sinking fund less than that estimated by the manager to be required for that purpose, the director of finance shall nevertheless cause to be set up an appropriation account for the full amount so estimated by the manager and shall, notwithstanding any other appropriation made by the commission, transfer to such account out of any

HeinOnline -- 1923 506 1923

moneys of the municipality derived from taxes and paid into the treasury such amount, or amounts, as may be necessary to bring the appropriation for the sinking fund up to the full amount of the manager's estimate. Any taxpayer of the municipality, or the owner of any bond thereof, may bring suit against the director of finance in the district court to enforce the provisions of this section and if, upon such suit, it be found that the commission has failed to make an appropriation for the full amount estimated by the manager to be required for the sinking fund and that the director of finance has failed to set up the appropriation account and provide for transfers thereto as required by this section, the court shall order the establishment of such appropriation account and the necessary transfers thereto as hereinbefore provided. Any such action by the court shall have the same force and effect in regard to appropriations to the sinking fund as though taken by the commission in its annual appropriation ordinance.

Procedure to compel appropriation to sinking fund.

Section 79. The sinking fund of the municipality shall be in charge of a sinking fund board consisting of the president, the director of finance and the director of law. The president shall be the chairman and the director of finance the secretary of the board. By and with consent of the commission the sinking fund board shall invest the sinking fund in bonds or certificates of indebtedness of the United States; state bonds or certificates of indebtedness of Montana or any other state of the United States; bonds of the City and County of Butte; notes and registered warrants on the treasury of such City and County issued in anticipation of the collection of taxes as authorized by section 76 of this act; bonds of any city in the state of Montana; and in such county or school bonds of Montana as may be approved by the commission. In case the sinking fund be invested in bonds of the City and County of Butte such bonds shall not be cancelled before maturity but shall be held by the sinking fund board and the interest thereon paid over and applied to the increase of the sinking fund. Whenever the principal of any of the bonds of the municipality shall become due the sinking fund board shall, with the consent of the commission, dispose of such of the bonds belonging to the sinking fund as, with the money on hand belonging to the sinking fund, shall be necessary to pay the bonds so becoming due.

Sinking fund board, appointment and powers.

HeinOnline -- 1923 507 1923

Award of contracts to lowest bidder.

Section 80. All contracts entered into by the municipality for supplies, or materials, for any public work, or for the construction, reconstruction, repair, maintenance or operation of any public works or improvements shall be awarded to the lowest responsible bidder after public advertisement and competition as may be prescribed by ordinance, but the manager shall have the right to reject all bids and advertise again. All advertisements as to contracts shall contain a reservation of the foregoing right. All contracts entered into by the municipality shall be signed by the manager after approval thereof by the commission.

Advertisement.

Alterations in contracts.

Section 81. When it becomes necessary in the opinion of the manager to make alterations or modifications in any contract entered into by the municipality such alterations shall be made only when authorized by the commission upon the written recommendation of the manager. No such alteration shall be valid unless the new price to be paid for any supplies, material or work under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the manager prior to such authorization by the commission.

POLICE DEPARTMENT.

Director of police.

Section 82. The police department shall be in charge of a director who shall be chief of the police force of the municipality, and shall also have the powers and perform the duties prescribed for sheriffs by the laws of this State. Officers and patrolmen of the police department, subordinate to the director, shall have the powers and perform the duties conferred on and required of policemen in cities and towns by the laws of the State, such powers and duties as may be conferred and required by the ordinances of the City and County of Butte, and shall also have the powers and perform the duties by law conferred on and required of deputy sheriffs.

DEPARTMENT OF PUBLIC WORKS.

Director of public works.

Section 83. The Department of public works shall be in charge of a director who shall manage and have charge of the construction, repair, improvement and maintenance of all public buildings, of roads, streets, alleys, sidewalks, bridges, viaducts and other public ways; of sewers, drains, ditches, culverts, streams and water courses; and of boulevards, parks, playgrounds, cemeteries and other public places and grounds dedicated to public use. He shall

Powers and duties.

HeinOnline -- 1923 508 1923

manage and control all public cemeteries, crematories, market places or houses, garbage and sewage disposal, plants and farms, and all public utilities belonging to the municipality or any subdivision thereof, and shall have charge of the enforcement of the obligations to the municipality of all privately owned or operated public utilities enforceable by the municipality. He shall have charge of the cleaning, sprinkling, and lighting of the streets and the collection and disposal of garbage and waste. He shall also be responsible for the making and preservation of all surveys, maps, plans, drawings and estimates for such public works, and for the preservation of contracts, papers, plans, tools, and appliances belonging to the municipality and pertaining to the functions of the department.

Qualifications.

Section 84. The director of public works shall have the qualifications prescribed by law for county surveyors and, in addition to the duties required by this act and by the ordinances of the municipality, he shall have the powers and shall, either in person or by a deputy having the qualifications prescribed by law for county surveyors, perform the duties required of county surveyors by the laws of the State.

DEPARTMENT OF HEALTH.

Director of health.

Section 85. The director of the department of health shall be a physician legally authorized to practice medicine and surgery in the State of Montana. Except as otherwise provided in this act the director of the department of health shall have the powers and perform the duties conferred on and required of coroners and county health officers by the general laws of the state. He shall also have such other powers and perform such other duties as may be prescribed by ordinance.

County board of health.

Section 86. The commission shall be the County Board of Health in and for the City and County of Butte, but in performing the duties and exercising the powers prescribed by law for such boards the commission shall act by ordinance, resolution or vote and according to the procedure prescribed by this act to be followed when acting as commission of the municipality, and it shall not be necessary to the validity of any such action for the commission to declare, or for the records thereof to indicate, that it is acting in other than its usual capacity. Regulations affecting the public health, additional to

HeinOnline -- 1923 509 1923

those established by general law, and for the violation of which penalties are imposed, may be prescribed by ordinance and enforced as provided therein.

FIRE DEPARTMENT.

Director of fire department.

Section 87. The fire department of the City and County of Butte shall be in charge of a director who shall be chief thereof and who shall manage and control the department in the manner prescribed by the ordinances of the municipality.

Continuation of firemen's disability fund.

Section 88. Any disability fund, or funds, of the fire department or departments, established as required by law in any city or town of the county prior to the election and qualification of a commission under this act, shall be continued as one such fund for the fire department of the City and County of Butte. The board of trustees of such disability fund shall consist of the president, the director of finance, the director of law, the director of the fire department, and one member of the fire department selected by a majority of the members of such department between the first and tenth days of July of each year in which the municipality shall elect a commission. Except as provided in this section, the disability fund of the fire department shall be continued and administered in the manner prescribed by law for such funds established in cities and towns.

COUNTY SUPERINTENDENT OF SCHOOLS.

County Supt. of schools.

Section 89. The commission shall, by majority vote of all its membes, appoint a municipal superintendent of schools to serve without definite term but subject to removal at the pleasure of the commission. The Superintendent of Schools for any district within the municipality may, with the consent of the trustees of such district, be appointed to serve as municipal superintendent. The compensation of the municipal superintendent shall be fixed by the commission, and he shall have the powers and perform the duties prescribed for county superintendents of schools by the laws of the state.

MUNICIPAL COURT.

Police courts.

Section 90. A police court is hereby established in and for the City and County of Butte, with the jurisdiction, powers, and duties within the municipality provided by general law for police courts in cities and towns, and for justices of the peace. The commission shall, by majority

HeinOnline -- 1923 510 1923

vote of all its members, appoint a police judge, or judges, to serve during the pleasure of the commission. No person shall be appointed police judge unless at least twenty-five years of age and admitted to practice law in the State of Montana. The compensation of the police judge, or judges, shall be fixed by the commission. Police judge.

PUBLIC WORK AND IMPROVEMENTS.

Section 91. Any local public work may be done or any local public works or improvements may be constructed, reconstructed, repaired, maintained or operated either by contract or directly by the municipality as may be determined by the commission. Before authorizing that any local public works or improvements be directly constructed, reconstructed, repaired, maintained or operated, detailed plans and estimates for each such work or improvement shall be submitted to the commission by the manager, and there shall be separate accounting for each work or improvement so executed. Public improvements, how made.

Section 92. The City and County of Butte shall have the same power and authority to create special improvement districts, and for like purposes, as provided by the laws of the state for counties, cities, and towns. Before creating any special improvement district, or proceeding with any work or improvement to be paid for in whole or in part by assessments upon property benefited thereby, the commission shall declare by resolution its intention so to do. Any such resolution shall set forth the boundaries of the proposed district, give a general description of the work or improvement contemplated and shall direct the manager to have a report prepared thereon. The resolution shall also specify the portion of the cost of the work or improvement to be assessed against the property within the proposed district and the number of installments, not exceeding ten, in which the assessments are to be paid. Power to create special improvement districts. Procedure. Resolution of intention.

Section 93. The report prepared as provided in the next preceding section shall include all necessary surveys, plans, profiles and specifications; estimates of the value of any land or other property proposed to be taken; estimates of the cost of any proposed action, work or improvement; and estimates of the amount of benefits or damages which should be assessed against or in favor of any property affected. A copy of the report, when completed, shall be placed on file for public inspection in Report.

HeinOnline -- 1923 511 1923

such office of the municipality as the manager may designate.

Notice to property owners.

Section 94. Upon the completion and filing of the report as provided in the next preceding section the assessor shall give notice to every person, firm or corporation having property within the proposed district, or the agent thereof, by mailing a notice to each such person, firm, corporation or agent, at his last known address, and shall also publish such notice at least once in a daily paper of general circulation in the municipality. The notice so mailed and published shall contain a description of the boundaries of the proposed improvement district, a description of the work or improvement contemplated, shall state where the report has been filed and that it is open to public inspection, and shall designate the time when and the place where the commission will hear and pass upon all protests that may be made against the making of the improvement, the doing of the work, the creation of the district specified in the notice, or against any assessment of benefits or damages as set forth in the report of the manager. Any such meeting of the commission shall not be sooner than ten days after the assessor shall have completed the mailing and publication of notice as provided in this section.

Mailing and publication.

General laws made applicable.

Section 95. Except as hereinbefore provided, and except that the director of public works shall be the engineer in charge of all such work, works or improvements, the provisions of the general law of the state regarding special improvement districts in cities and towns shall apply to and control the establishment under this act of special improvement districts in and for the City and County of Butte, and the procedure according to which any local public work or the construction, reconstruction, repair, maintenance or operation of any local public work or improvement is to be provided for when the cost thereof is to be paid in whole or in part by assessments upon the property within any such district, and such general law shall also apply to the manner of levying and collecting such assessments.

NOMINATIONS AND ELECTIONS.

Elections, holding and conduct.

Section 96. For any election held on the question of the adoption of this act, and for the first election of members of the commission thereunder if adopted, the county clerk and board of county commissioners of Silver

HeinOnline -- 1923 512 1923

Bow County shall exercise the powers and perform the duties respecting elections prescribed for county clerks and boards of county commissioners by the general laws of the State. After the adoption of this act by the electors of the county, and the election and qualification of a commission thereunder, the powers and duties of county clerks and boards of county commissioners under the general election laws of the State shall devolve upon the clerk and commission of the City and County of Butte, and, except as otherwise provided in this act, the provisions of such laws shall continue to apply to all elections held within the City and County of Butte.

Judges and clerks.

Section 97. The commission shall appoint three judges and two clerks for each election precinct and shall fix the compensation of judges and clerks of elections, but the compensation of a judge or clerk for services at any election shall not exceed ten ($10.00) dollars.

Municipal primary elections.

Section 98. A municipal primary election for the choice of members of the commission shall be held on the last Tuesday of April next following the adoption of this act by the voters of Silver Bow County and on the last Tuesday in April of every second year thereafter. All candidates for the commission receiving a majority of the votes cast at the municipal primary election shall be deemed and declared elected to the commission. If seven candidates do not receive a majority of the votes cast at the municipal primary election a municipal election shall be held on the first Tuesday in June next following the primary election to fill the remaining places. At all municipal elections the polls shall be open from 8 a. m. to 6 p. m. The method of conducting such elections, registering voters therefor, counting the votes cast thereat, and canvassing the returns thereof, shall be as prescribed by the election laws of the state.

Nominations of commissioners, how made.

Section 99. Any elector of the City and County of Butte eligible to membership in the commission may be placed in nomination therefor by petition filed with the clerk and signed by at least three hundred (300) electors of the municipality. The signatures to a nominating petition need not all be appended to one paper but to each separate paper there shall be attached an affidavit of the circulator thereof stating that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be.

Petitions.

HeinOnline -- 1923 513 1923

Each signer of a petition shall sign his name in ink or indelible pencil and, after his name, shall designate his residence by street and number or other description sufficient to identify the place, and give the date when his signature was made. No elector shall sign petitions for more candidates for the commission than the number of places to be filled therein at the forthcoming primary election.

Form of nominating petition.

Section 100. The form of nominating petition papers shall be substantially as follows:

We, the undersigned electors of the City and County of Butte, hereby nominate ..... whose residence is ..... for the office of commissioner, to be voted for at the primary election to be held on the last Tuesday of April 19.....; and we individually certify that we are qualified to vote for candidates for the above office and that we have not signed nominating petitions for more than seven candidates for the commission.

Name	Residence (Street and Number) or description to Identify Place	Date
.....	.....	.....
.....	.....	.....
.....	.....	.....

State of Montana, City and County of Butte: ss.

..... being duly sworn deposes and says that he is the circulator of this petition paper, that the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be.

Signed .....

Subscribed and sworn to before me this ..... day of ..... 19.....

.....

Notary Public.

Filing of papers.

Section 101. All separate papers comprising a nominating petition shall be assembled and filed with the clerk as one instrument at least thirty days prior to the next succeeding last Tuesday in April. Within five days after the filing of the nominating petition the clerk shall

Notice to nominees.

notify the person named therein as a candidate whether such petition is signed by the required number of qualified electors. Any eligible person placed in nomination as hereinbefore provided shall have his name printed on the ballots and placed upon any voting machine used at the

HeinOnline -- 1923 514 1923

primary election if, within five days after such notifications, he shall have filed with the clerk a written acceptance of the nomination.

Party designation forbidden.

Section 102. No party mark or designation shall appear on the ballots, or in connection with the names of candidates on any voting machine, used in the election of members of the commission. Each elector may vote for as many candidates for the commission as there are places to be filled therein; but any ballot marked for more candidates than the number of places to be filled shall not be counted for any of the candidates for which marked. The ballots shall be in form substantially as follows:—

Voting.

Form of ballot.

MUNICIPAL ELECTION
City and County of Butte.
(Month and day of month) 19.....
FOR COMMISSIONERS.
Do not vote for more than .....
.....
.....
.....

Order of names, how determined.

Section 103. At two o'clock, P. M. on the tenth day before any election at which members of the commission are to be chosen the clerk shall publicly determine by lot the order in which the names of candidates for election to the commission shall be printed on the ballots or appear on any voting machine, to be used at such election.

Blank spaces on ballot.

Section 104. As many blank spaces shall be left on the ballots below the printed names of candidates for the commission as there are places to be filled therein. In any such space an elector may write the name of any eligible person, and a vote cast for such person shall be counted as though for a candiate whose name is printed on the ballots.

Notice of election.

Section 105. On the tenth day prior to the municipal primary election the clerk shall cause notice thereof to be published in such daily newspaper, or newspapers, of general circulation in the municipality as the commission may have designated. In case the commission fail to designate such newspaper or newspapers, the clerk shall cause the notice to be published in such newspaper, or newspapers, of general circulation in the municipality as he may select. Such published notice shall contain a

HeinOnline -- 1923 515 1923

list of the candidates for the commission nominated as hereinbefore provided, and state the time of holding the election. On the fifth day prior to a municipal election held on the first Tuesday in June the clerk, under like conditions, shall cause a similar notice to be published concerning that election. The commission may also provide for giving notice of such elections by other means.

Names, how placed on ballot and voting machine.

Section 106. At any municipal election held for the choice of members of the commission on the first Tuesday in June following a municipal primary election there shall be printed on the ballots and placed on the voting machines the names of the candidates receiving the highest number of votes at the municipal primary election, except the names of those elected to the commission thereat, and the number of names so printed on the ballots and placed on the voting machines shall be equal to double the number of places remaining to be filled in the commission. If, by reason of their having received the same number of votes, it cannot be determined which of two or more candidates shall have his name, or their names, printed on the ballots or placed on the voting machines, then, notwithstanding the foregoing provisions of this section the names of all such candidates receiving the same number of votes shall be printed on the ballots and placed on the voting machines. The candidates for the commission at an election held on the first Tuesday in June, equal in number to the places remaining to be filled in the commission, who receive the highest number of votes shall be declared elected. A tie between two or more candidates shall be decided by lot in the presence of such candidates and under the direction of the clerk.

THE RECALL.

Recall, procedure.

Section 107. Any member of the commission may be removed from office by the electors of the municipality. The procedure for effecting such a removal shall be as follows:--

Filing of affidavit.

Any elector of the municipality may make and file an affidavit with the clerk requesting that petitions be issued demanding an election for the recall of any member of the commission. Any such affidavit shall state the name of the person whose removal from the commission is sought and the grounds alleged for such removal. Upon the filing of such an affidavit, the clerk shall deliver to the elector making the affidavit copies of petition

HeinOnline -- 1923 516 1923

papers for demanding such an election, printed copies of which the clerk shall keep on file for distribution as herein provided. In issuing any such petition paper the clerk shall enter in a record to be kept in his office the name of the elector to whom issued, the date of issuance, the number of papers issued, and shall certify on each paper the name of the elector and the date of issuance. No petition paper shall be accepted as part of a petition unless it bear such certification of the clerk and unless filed as hereinafter provided.

Return and filing of petition.

Section 108. A petition for a recall election to be effective must be returned and filed with the clerk within thirty days after the filing of the affidavit as provided in the next preceding section, and to be sufficient must bear the signatures of electors equal in number to at least twenty per centum (20%) of those who voted at the last preceding regular municipal election. If any such petition be insufficient as originally filed it may be amended as provided in this act.

Submission to commission.

Election.

Section 109. If a petition for a recall election, or an amended petition, shall be certified by the clerk to be sufficient he shall at once submit it to the commission with his certificate to that effect and shall notify the member of the commission whose removal is sought of such action. Unless the member whose removal is sought resign within five days after such notice, the commission shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than forty nor more than sixty days after the petition has been presented to the commission and may be held at the same time as any other election held within such period; but, if no other election be held within such period, the commission shall call a special recall election to be held within the time aforesaid.

Submission of two or more recalls.

Section 110. The question of recalling any number of members of the commission may be submitted at the same election, but as to each member whose removal is sought a separate petition shall be filed and provision shall be made for an entirely separate printed ballot. Candidates to succeed any person whose removal is sought shall be placed in nomination by petition signed, filed and verified as provided for nominating petitions for a municipal primary election; except that each petition paper shall specify that the candidate named therein

HeinOnline -- 1923 517 1923

is a candidate to succeed a particular person whose removal is sought.

Voting machines.

Section 111. Voting machines shall not be used in recall elections, and the printed ballots shall be in form substantially as follows:—

Ballot.

RECALL ELECTION
CITY AND COUNTY OF BUTTE
(Month and day of month, 19.....)

SHALL (name of person) BE REMOVED FROM THE COMMISSION BY RECALL.

FOR THE RECALL OF
(Name of Person)

AGAINST THE RECALL OF
(Name of Person)

CANDIDATES
To succeed (name of person) if recalled.
Vote for but one.

.....
.....
.....
.....

Effect of election.

Section 112. If a majority of the votes cast on the question of recalling a member of the commission as hereinbefore provided be against his recall he shall continue in office for the remainder of his unexpired term, but subject to recall as before. If a majority of such votes be for the recall of such member he shall, regardless of any defect in the recall petition, be deemed removed from office. When a member is removed from the commission by recall the candidate to succeed such member who receives the highest number of votes shall succeed the member so removed for the unexpired term.

Effect of resignation.

Section 113. If a person in regard to whom a recall petition is submitted to the commission shall resign from office after notice thereof no election shall be held and some eligible person shall be chosen by a majority vote of the remaining members to fill the place for the unexpired term; but the member so resigning shall not be chosen by the commission to succeed himself.

Limitation as to time.

Section 114. No recall petition shall be filed in respect to any member of the commission within three months after he takes office nor, in case of a member subjected

HeinOnline -- 1923 518 1923

to a recall election and not removed thereby, until at least six months after that election.

GENERAL PROVISIONS.

Officers not to receive fees.

Section 115. No person elected or appointed to any office or position under the municipal government established by this act shall be entitled to or receive for his own use any fees, emoluments, commissions or perquisites other than the salary or compensation fixed by this act or by the commission, and all such fees, emoluments, commissions and perquisites arising out of the performance of official duty shall belong to the municipality and be paid into the treasury thereof.

Solicitations prohibited.

Section 116. No person holding an appointive office or position in the municipal government shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription or contribution for any political party or purpose whatever. No person shall orally or by letter solicit, or be in any manner concerned in soliciting, any assessment, subscription or contribution for any political party or purpose from any person holding an appointive office or position in the municipal government. No person shall use or promise to use his influence or official authority to secure any appointment, or prospective appointment, to any position in the service of the municipality as a reward or return for personal or partisan political service. No person shall take part in preparing any political assessment, subscription or contribution with the intent that it should be sent or presented to or collected from any person in the service of the municipality, nor shall he knowingly send or present directly or indirectly, in person or otherwise, any political assessment, subscription or contribution to, or request its payment by any person in such service.

Other prohibited acts.

Section 117. No person in the service of the municipality shall discharge, suspend, lay off, reduce in grade, or in any manner change the official rank or compensation of any person in such service or threaten to do so, for withholding or neglecting to make any contribution of money or service or any valuable thing for any political purpose. No person holding an appointive office or place in the municipal government shall act as an officer in a political organization, or serve as a member of a committee of any such organization, or circulate or

HeinOnline -- 1923 519 1923

seek signatures for any petition provided for by primary or election laws.

Penalty.

Section 118. Any person who, by himself or in cooperation with one or more persons, wilfully or corruptly violates any of the provisions of section 116 and 117 of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for a term not exceeding three months, or by both such fine and imprisonment, and if he be an officer or employee of the municipality he shall immediately forfeit his office or employment.

Restrictions on commissioners.

Section 119. No person elected to the commission shall, during the term for which elected, be appointed to any office or position in the service in the municipality. If a member of the commission shall become a candidate for any public office, other than that of commissioner, he shall immediately forfeit his place in the commission; and any appointive officer or employee of the municipality who shall become a candidate for nomination or election to any public office shall immediately forfeit the office or employment held under the municipality.

Board of equalization.

Section 120. The commission shall constitute the board of equalization for the City and County of Butte, and, except as otherwise provided in this act, shall have all other powers and perform all other duties prescribed for boards of county commissioners by the laws of this state.

Bonds required.

Section 121. The members of the commission, the manager, the director of finance, the treasurer, the purchasing agent, the director of law, the director of police, and such other officers and employees of the municipality as the commission require so to do, shall, immediately upon taking office, give bonds with such surety as may be approved by the commission; but no officer or employee shall become surety upon the official bond of another officer or employee. Members of the commission shall give bonds in the sum of five thousand dollars and other officers and employees shall give bonds in such amounts as the commission may require. The premium on such official bonds may be paid by the municipality. All such bonds, except those of the manager and the director of finance, shall be filed with the

Premiums.

HeinOnline -- 1923 520 1923

director of finance. The official bonds of the manager and the director of finance shall be filed with and kept by the president of the commission.

Oath of office.

Section 122. Every officer of the municipality shall, before entering upon the duties of his office, take and subscribe to the oath or affirmation required of officers by Section 430 of the Revised Code of Montana, 1921, which oath or affirmation shall be filed and kept in the office of the clerk.

Interest of officers in contracts prohibited.

Section 123. No officer or employee of the municipality shall have a financial interest direct or indirect, in any contract therewith, or be financially interested, directly or indirectly, in the sale to the municipality of any land, materials, supplies, or services except on behalf of the municipality as an officer or employee. Any wilful violation of this section shall constitute malfeasance in office, and any officer or employee found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, actual or implied, of the person or corporation contracting with the municipality shall render the contract involved voidable by the manager or the commission.

Existing contracts continued.

Section 124. All contracts entered into by the County of Silver Bow or by any city or town therein, or on behalf of any improvement district by such county or by any such city or town, prior to the election and qualification of a commission under this act, shall continue in full force and effect subsequently thereto. Public improvements, for which initial steps may have been taken under laws effective in the county prior to the election and qualification of a commission under this act, may thereafter be carried to completion in accordance with the provisions of such laws.

Existing ordinances continued.

Section 125. All existing ordinances and resolutions of the City of Butte of general application therein and not inconsistent with the provisions of this act shall, upon the election and qualification of a commission under this act, be continued in force and their application extended throughout the city and county of Butte until amended or repealed by the commission. All other ordinances and resolutions of the City of Butte and of any city or town within the county, except ordinances and resolutions relating to public improvements to be paid for in whole or in part by special assessments,

HeinOnline -- 1923 521 1923

shall, upon the election and qualification of a commission under this act, be deemed repealed.

Continuation of existing officers.

Section 126. The members of the board of county commissioners of Silver Bow County, and the members of the council of any city or town within the county, holding office on the fifteenth day of April next preceding the first election of a commission under the provisions of this act, shall continue in office and in the performance of their duties until such commission shall have been elected and have qualified, whereupon such board of county commissioners and all such city and town councils shall be deemed abolished. All other persons holding offices or positions, whether elective or appointive, under the government of such county, or under the government of any city or town therein, at the time of such first election and qualification of a commission under the provisions of this act shall continue in the performance of the duties of their respective offices and positions, as though appointed under this act, until provisions shall have been made in accordance therewith for the performance or discontinuance of such duties or the discontinuance of such offices or positions.

Effect of adoption of act.

Section 127. Upon the adoption of this act by the voters of the county and the election and qualification of a commission thereunder the separate corporate existence and government of Silver Bow County and of each and every city and town therein shall be deemed consolidated and merged into the municipality established by this act, which shall succeed to, possess and own all the property and assets and shall, save as herein otherwise provided, become responsible for all the obligations and liabilities of the county, cities and towns as consolidated and merged.

Transition of government.

Section 128. The commission shall have power to make all necessary regulations, not inconsistent with this act, for the transition from the several governments of and within the county to the government provided by this act, including the transfer to the treasury of the City and County of Butte of all funds and moneys of such several governments.

Submission of question of adoption this act.

Section 129. The question of the adoption of this act shall be submitted to the electors of the county if a petition, signed by at least twenty-five hundred (2500) electors thereof requesting such submission, be filed with

HeinOnline -- 1923 522 1923

the county clerk. Any such petition shall be signed and filed, and shall be verified by the clerk, in the manner prescribed in this act for the signing, filing and verification of a referendum petition. If the county clerk find that any such petition, or amended petition, so filed is signed by the required number of electors he shall so certify to the board of county commissioners at their next meeting, and such board shall thereupon order and fix a day for holding such election which shall not be less than forty nor more than one hundred and twenty days after receipt of the clerks certificate.

Voting.

Section 130. Voting on the question of the adoption of this act by the electors of the county shall be by printed ballot only, and the ballots shall be in form substantially as follows:—

Ballot.

.....

SHALL CHAPTER OF THE MONTANA SESSION LAWS OF 1923, BEING AN ACT TO PROVIDE FOR THE CONSOLIDATION AND MERGER INTO ONE MUNICIPAL CORPORATION AND GOVERNMENT OF THE COUNTY OF SILVER BOW AND ALL CITIES AND TOWNS THEREIN BE ADOPTED?

.....

YES

.....

NO

.....

Effect of election.

Section 131. If when submitted to the electors of the county, the adoption of this act be approved by a majority of those voting on the question it shall be deemed adopted and for the purpose of nominating and electing members of the commission this act shall be in effect from and after the election at which adopted, and in all other respects it shall be in effect immediately upon the election and qualification of a commission thereunder.

Effect of partial invalidity of act.

Proviso.

Section 132. The finding of the invalidity of any provision of this act shall not be deemed to invalidate the remaining provisions thereof. Provided, however, that when two or more city and county consolidation measures have been enacted into law applying to the same city, cities or towns, and counties they must be submitted to a vote of the qualified electors in the territory affected by them at one and same time and the plan

HeinOnline -- 1923 523 1923

securing a majority of the votes cast at such election will be declared adopted.

Section 133. This act shall be in full force and effect from and after its passage and approval and all acts and parts of acts in conflict therewith are hereby repealed.

Approved March 14, 1923.

CHAPTER 161.

An Act to Amend Section 7211, Revised Codes, Montana, 1921 Relating to the Petition for Bonds of Irrigation Districts and Action Thereon and to the Confirmation by the District Court of Bond Proceedings of Irrigation Districts, Providing That the Proceedings Enumerated in Such Sections Shall Not Be Had or Accomplished Until Compliance Is First Had With Sections 7216, 7218. Revised Codes Montana, 1921, as Amended Herein and With All the Sections of This Act; and to Amend Sections 7216 and 7218 Revised Codes, Montana, 1921, by Providing for the Submission to the Irrigation District Bond Commission for All Proceedings for Issuance of Bonds of Irrigation Districts Now or Hereafter Created, Under and by Virtue of Chapter 146, Laws 1909, and Acts Amendatory Thereof and Supplemental Thereto as Embraced in Sections 7166 to 7264, Revised Codes, Montana, 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Confirmation by district court procedure.

Section 1. Section 7211, Revised Codes, Montana, 1921, shall be and the same is hereby amended to read as follows:

Within ten days after the adoption of the order or resolution mentioned in the preceding section the board of commissioners shall file a petition in the district court of the judicial district wherein is located the office of said board, to determine the validity of the proceedings had relative to the issuance of said bonds, and to the levy of said special tax or assessment.

Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested shall be had by notice given as hereinafter provided. Such petition shall set forth (1) generally, the establishment and organization of the district; (2) a certified copy of the petition mentioned in the preceding section; (3) a certified copy of the order or resolution mentioned in the

Petition.

HeinOnline -- 1923 524 1923

preceding section; (4) a prayer for the confirmation of the proceedings of the board stated in the petition, and for the confirmation of the bond issue and the special tax or assessment levied to pay the bonds and interest thereon. Upon the filing of said petition in the district court, the court or judge thereof shall fix the time for the hearing of said petition, which shall be not less than fifteen days from the date of filing the petition in said court, and shall order the clerk of the court to give notice of the filing of said petition and the date of the hearing thereon, by publication at least once a week for two calendar weeks in a newspaper published or of general circulation in the county where the office of the board of commissioners of the district is situated, and also by posting a written or printed copy of such notice in at least three public places in each division of the district, the first of such publications and such posting to be not less than fifteen days prior to the date fixed for said hearing.

Time for hearing.

Said notice shall state the substance of the petition and the time and place fixed for the hearing thereon, and that any person interested in or whose rights may be affected by the issuance or sale of said bonds, or the levy of said special tax or assessment, or the proceedings had or to be had by the said board of commissioners with respect to said matters, may, on or before the day fixed for the hearing of said petition, demur to or answer said petition, and may appear at said hearing and contest the granting of the prayer of said petition, and the entry of any order of confirmation pursuant thereto.

Notice of hearing.

Demurrer.

Contest.

Any person interested in or whose rights may be affected by the issuance or sale of said bonds, or the levy of said special tax or assessment, or the proceedings had or to be had by the board of commissioners of the district in connection with said matters, and the entry of any order of confirmation pursuant thereto, may enter his appearance in such proceedings and demur to or answer said petition and contest the granting of the prayer of said petition.

Appearance.

The provisions of the Code of Civil Procedure respecting the demurrer or answer to a verified complaint shall be applicable to a demurrer or answer to said petition. The persons so demurring to or answering said petition shall be the defendants in the proceeding, and the board of commissioners shall be the plaintiff. Every material statement of the petition, not specifically controverted

Provisions applicable.

HeinOnline -- 1923 525 1923

by the answer, shall be taken as true, and every holder of title or evidence of title to lands included in the district failing to answer or demur to the petition shall be deemed to admit as true all the material statements thereof. The procedure in such action shall be determined by the Code of Civil Procedure.

Procedure.

Court to make findings.

Upon the hearing the district court shall find and determine whether the provisions and requirements of the preceding section have been complied with, and notice of the filing of the petition in the district court and of the time and place of the hearing thereon has been duly given for the time and in the manner herein prescribed, and shall have power and jurisdiction to examine and determine the regularity, legality, and validity of the proceedings had preliminary and relative to the issuance of the bonds, and the levy of the special tax or assessment in the petition mentioned, and the legality and validity of said bonds and special tax or assessment, and any and all actions taken by the board of commissioners in connection with said matters, and shall hear all objections filed to said proceedings, or any part thereof, or to the issuance of said bonds, or the levy of the said special tax or assessment or any portion thereof. The court, in inquiring into the regularity, legality, and validity of said proceedings, shall disregard any error, omission, or other irregularity which does not affect the substantial rights of the parties to said proceedings. The court may ratify, approve, and confirm said proceedings in whole or in part, and may ratify, approve, and confirm said bonds and special tax or assessment, and enter its judgment or decree accordingly. From any such judgment or decree an appeal may be taken to the supreme court at any time within ten days from the entry of such judgment or decree. Such appeal shall be taken, perfected, and heard in the manner prescribed by the Code of Civil Procedure covering appeals from district courts to the supreme court. If no such appeal be taken within the time aforesaid, or if taken and the judgment or decree of the district court be affirmed by the supreme court, such judgment or decree shall be forever conclusive upon all the world as to the validity of said bonds and said special tax or assessment, and the same shall never be called into question in any court in the state. The costs of said proceedings shall be allowed or apportioned between the parties in the discretion of the court.

Judgment.

Appeals.

Costs.

HeinOnline -- 1923 526 1923

Provided however, that none of the proceedings mentioned herein shall be had or accomplished, or in anywise initiated or prosecuted, until all and singular the matters relating to the issuance of bonds for the district shall first have been submitted to and favorably acted upon by the irrigation district bond commission, pursuant to the requirements of sections 7216 as amended herein, 7217, 7218 as amended herein and sections 7219 to 7225, inclusive, all of the Revised Codes, Montana, 1921; and provided, further, that submission to and report by the irrigation district bond commission shall be had only in the matter of the issuance of bonds for construction purposes or for acquisition of construction works, in whole or in part. Proviso.

Section 2. Section 7216, Revised Codes, Montana, 1921, shall be and it is hereby amended to read as follows: Board to adopt resolution when.

(a) Whenever the Board of Commissioners of any irrigation district organized and existing under and pursuant to Chapter 146, Acts of the Eleventh Legislative Assembly and Acts amendatory thereof or supplemental thereto, of the State of Montana, shall contemplate the issuance of bonds to defray the expenses of construction or purchase of works for said district, for said district, the said Board of Commissioners shall thereupon adopt a resolution recommending to the district such bond issue, and therein fully and completely state all the terms, conditions and provisions affecting the same, and the said Board of Commissioners shall file a certified copy of such resolution with the Irrigation District Bond Commission hereinafter established, at the same time application is made to the irrigation district bond commission, as herein provided.

(b) Before the said Board of Commissioners shall circulate or cause to be circulated, or before any other person affected by such district shall circulate or cause to be circulated a petition among the land holders of said district authorizing the issuance of bonds of said district for the purposes enumerated in (a) above, the said Board of Commissioners shall make application to the said irrigation district bond commission, by resolution duly adopted, for a thorough investigation and inquiry into the merits of said proposed bond issue, and into the merits and feasibility of said district and into the propriety and legality of all and singular, the proceedings Investigation of proposed bond issue.

HeinOnline -- 1923 527 1923

had therein, and into all matters enumerated in Section 7217, Revised Codes, Montana, 1921.

Section 3. Section 7218, Revised Codes, Montana, 1921, shall be and the same is hereby amended to read as follows:

Certification by secretary of state.

(a) The written report of the investigation herein provided for shall be filed in the office of the secretary of state, and a copy of said report shall be by the irrigation district bond commission forwarded to the secretary of the district for which the investigation shall have been made, and if said commission shall find, as set out in said report, that the irrigation system of the district and the project for which the bonds under consideration are desired, are feasible, and that the aggregate amount of the bonds under consideration and any other outstanding bonds of said district including bonds authorized, but not sold, does not exceed sixty (60) per centum of the aggregate market value of the lands within said district, and of the water, water rights, canals, reservoir, reservoir sites, and irrigation works owned or to be acquired or constructed with the proceeds of any of said bonds by said district the bonds of such irrigation district, as described and enumerated in said report filed with the secretary of state, shall be certified by the secretary of state, as hereinafter provided for. If the commission shall be notified by the board of commissioners of any district whose irrigation system has been found in such report to be feasible that the district has issued bonds, and the commission shall find that said bonds are for any project or projects approved in such report, and that the amount of said bonds does not exceed the limitation stated in such report, the commission shall prepare and file with the secretary of state a supplementary report giving the numbers, date or dates of issue, and denomination of said bonds, which shall then be entitled to certification by the secretary of state as hereinafter provided for. Subsequent issues of bonds may be made available for the purposes specified in this act upon like proceedings by said district, but after any of the bonds of an irrigation district have been enumerated and described as entitled to certification by the secretary of state as herein provided for, it shall be unlawful for that district to issue bonds that will not be entitled to such certification. It is hereby made the duty of the secretary of state to provide for filing and

HeinOnline -- 1923 528 1923

preserving the reports mentioned in this section, and, also, to make, keep, and preserve a record of the bonds certified by him in accordance with the provisions of section 7222 of this code, including the date of certification, the legal title of the district, the number of each bond, its par value, the date of its issue and that of its maturity.

Upon the receipt of the report of the irrigation district bond commission, by the secretary of the district, and after the said commission shall make a specific finding in favor of the proposed bond issue, and approve the same as proposed, in its said report, petitions for the authorization of said bond issue may thereupon be circulated, and if subscribed by petitioners constituting at least a majority in number and acreage of the holders of title or evidence of title to the lands included within said district, and duly and regularly confirmed by the District Court, as provided in Sections 7210 and 7211, Revised Codes, Montana, 1921, said bonds may thereupon be issued and offered for sale, provided, however, that no bonds of any irrigation district organized under said Chapter 146, Laws 1909, issued for construction purposes, or for acquisition of construction works, in whole or in part shall be offered for sale or exchange or shall be sold or exchanged unless said bonds bear on their face the certification of said irrigation district bond commission.

Interpretation.

(b) Nothing contained in Sections 7210, 7211, and any other section or provision of said Chapter 146, shall be interpreted or construed to any manner authorize the issuance of bonds for said districts so organized under said Chapter 146, except and until the provisions of Sections 7216-7225, Revised Codes, Montana, 1921, have been fully complied with, and the provisions of said Sections 7210 and 7211 shall be operative only after favorable report upon the proposed bond issue by the said irrigation district bond commission. Compliance with this act shall be compulsory upon all districts now or hereafter organized under Chapter 146, laws 1909 and acts amendatory thereof and supplemental thereto.

Declaration of purpose of act.

(c) The Legislative Assembly of the State of Montana hereby declares that it makes this enactment for the purpose of safeguarding the interests of land owners and land holders within irrigation districts now existing under, or hereafter established under the provisions of said Chapter 146, for the promotion of irrigation inter-

HeinOnline -- 1923 529 1923

ests in Montana for insuring districts as financially feasible and as economically and profitably productive, and for preserving the credit and integrity of said land holders and preventing exploitation of said land holders, and of investors in the obligations of said district.

Section 4. All Acts and parts of acts in conflict herewith are hereby repealed.

Section 5. This act shall be in full force and effect after its passage and approval.

Approved March 14, 1923.

CHAPTER 162.

An Act to Provide for the Support of the Government of the State of Montana for the Years 1923 and 1924.

Be it enacted by the Legislative Assembly of the State of Montana:

State tax levies 3½ mills 1923.

Section 1. There is hereby levied for the state purposes upon all of the property in the state subject to taxation for the year 1923 an ad valorem tax of three and one-half (3½) mills on each dollar of the taxable valuation of such property as ascertained by taking the percentage of the true and full value provided by law for the purpose of taxation.

3½ mills 1924.

Section 2. There is hereby levied for state purposes upon all of the property in the state subject to taxation for the year 1924 an ad valorem tax of three and one-half (3½) mills on each dollar of the taxable valuation of such property as ascertained and determined by taking the percentage of the true and full value provided by law for the purpose of taxation.

1-5 mill 1923.

Section 3. There is hereby levied upon all property in the state subject to taxation for the year 1923 one-fifth (1-5) of one mill on each dollar of the taxable valuation of such property as ascertained and determined by taking the percentage of the true and full value provided by law for the purpose of taxation for the purpose of paying the interest on and to constitute a sinking fund for the redemption of the bonds issued by the State of Montana pursuant to the provisions of Chapter 105, Acts of the Sixteenth Legislative Assembly. (Sections 5655 to 5665, both inclusive, of the Revised Codes of Montana of 1921.)

HeinOnline -- 1923 530 1923

1-5 mill 1924.

Section 4. There is hereby levied upon all property in the state subject to taxation for the year 1924, one-fifth (1-5) of one mill on each dollar of the taxable valuation of such property as ascertained and determined by taking the percentage of the true and full value provided by law for the purpose of taxation for the purpose of paying the interest on and to constitute a sinking fund for the redemption of the bonds issued by the State of Montana pursuant to the provisions of Chapter 105, Acts of the Sixteenth Legislative Assembly. (Sections 5655 to 5665, both inclusive, of the Revised Codes of Montana of 1921.)

7-10 mills 1923.

Section 5. There is hereby levied upon all property in the state subject to taxation for the year 1923 seven-tenths (7-10) of one mill on each dollar of the taxable valuation of such property as ascertained and determined by taking the percentage of the true and full value provided by law for the purpose of taxation for the purpose of paying the interest on and to constitute a sinking fund for the redemption of bonds issued by the State of Montana pursuant to the provisions of the law initiated and approved by the people of the State of Montana at the general election held in November, 1920, and entitled: "A Bill to enact by the initiative a law to authorize the State of Montana to become indebted in the sum of Five Million Dollars ($5,000,000.00) in excess of the Constitutional limitation of indebtedness and over and above any bonded indebtedness heretofore increased or created and for which the State of Montana is now obligated, for the construction, repair and equipment of necessary buildings at the several educational institutions of the State of Montana now under the control of the State Board of Education, and consisting of the State University at Missoula, the State College of Agriculture and Mechanic Arts at Bozeman, the Montana State School of Mines at Butte and the Montana State Normal School at Dillon comprised in the University of Montana, and the State Orphan's Home at Twin Bridges. the Montana School for the Deaf and Blind at Boulder. the Montana State Industrial School at Miles City, and the State Vocational School for Girls at Helena; providing for the issuance of bonds in the name of the State of Montana as evidence of such indebtedness and for the sale thereof; prescribing the form of such bonds; and providing for the levying of an annual tax sufficient to

HeinOnline -- 1923 531 1923

pay the principal thereof and interest accruing thereon." (Sections 5606 to 5614, both inclusive, of the Revised Codes of Montana of 1921.)

7-10 mills 1924.

Section 6. There is hereby levied upon all property in the state subject to taxation, for the year 1924, seven-tenths (7-10) of one mill on each dollar of the taxable valuation of such property as ascertained and determined by taking the percentage of the full and true value provided by law for the purpose of taxation for the purpose of paying the interest on and to constitute a sinking fund for the redemption of bonds issued by the State of Montana pursuant to the provisions of the law initiated and approved by the people of the State of Montana at the general election held in November, 1920, and entitled: "A Bill to enact by the initiative a law to authorize the State of Montana to become indebted in the sum of Five Million Dollars ($5,000,000.00) in excess of the Constitutional limitation of indebtedness and over and above any bonded indebtedness heretofore increased or created and for which the State of Montana is now obligated, for the construction, repair and equipment of necessary buildings at the several educational institutions of the State of Montana now under the control of the State Board of Education, and consisting of the State University at Missoula, the State College of Agriculture and Mechanic Arts at Bozeman, the Montana State School of Mines at Butte and the Montana State Normal School at Dillon comprised in the University of Montana, and the State Orphan's Home at Twin Bridges, the Montana School for the Deaf and Blind at Boulder, the Montana State Industrial School at Miles City, and the State Vocational School for Girls at Helena: providing for the issuance of bonds in the name of the State of Montana as evidence of such indebtedness and for the sale thereof; prescribing the form of such bonds; and providing for the levying of an annual tax sufficient to pay the principal thereof and interest accruing thereon." (Sections 5606 to 5614, both inclusive, of the Revised Codes of Montana of 1921.)

Section 7. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 8. This Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HeinOnline -- 1923 532 1923

CHAPTER 163.

An Act Appropriating Money for the Administration and Other Expenses of the State Highway Commission and for the Maintenance and Construction, Supervision and Inspection of State Highways for the Two Years Beginning July 1, 1923 and Ending June 30, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriations for state highways.

Section 1. That the following sums, or so much thereof as may be necessary and available, be and the same are hereby appropriated out of any money in the state treasury to the credit of the state highway fund, including the unexpended balance to the credit of such fund on June 30, 1923, for the uses and purposes hereinafter stated, for the year beginning July 1, 1923 and ending June 30, 1924:

First, for administration expense including payment of salaries, travel and all other administrative expenses of the State Highway Commission, Eighty Thousand Dollars $80,000.00

Second, for all costs and expense of surveys, plans and all other field engineering expense incurred prior to the letting of contracts, Thirty Five Thousand Dollars $35,000.00

Third, for the maintenance of Federal Aid projects, Eighty Thousand Dollars $80,000.00

Proviso.

Provided that the balance or remainder of said Highway Fund not required to satisfy the above specific appropriations, but not to exceed the sum of One hundred fifty thousand dollars ($150,000.) be and the same is hereby appropriated for deposit to the credit of the Highway Trust Fund to be used for the construction, supervision and inspection of Federal Aid Projects according to the following ratio of financial participation in the cost thereof: State 15 per cent, counties 32 per cent, Federal Government 53 per cent.

Section 2. That the following sums, or so much thereof as may be necessary and available, be and the same are hereby appropriated out of any money in the state treasury to the credit of the state highway fund, including the unexpended balance to the credit of such fund on June 30, 1923, for the uses and purposes hereinafter stated, for the year beginning July 1, 1924 and ending June 30, 1925:

HeinOnline -- 1923 533 1923

First, for administration expense including payment of salaries, travel and all other administrative expenses of the State Highway Commission Eighty Thousand Dollars $80,000.00

Second, for all costs and expense of surveys, plans and all other field engineering expense incurred prior to the letting of contracts, thirty-five thousand dollars $35,000.00

Third, for the maintenance of Federal Aid projects, Eighty Thousand Dollars $80,000.00

Provided that the balance or remainder of said Highway Fund not required to satisfy the above specific appropriations, but not to exceed the sum or One hundred fifty thousand dollars ($150,000) be and the same is hereby appropriated for deposit to the credit of the Highway Trust Fund to be used for the construction, supervision and inspection of Federal Aid Projects according to the following ratio of financial participation in the cost thereof: State 15 per cent, counties 32 per cent, Federal Government 53 per cent.

Limitation on expenditures by highway commission.

Section 3. That the Highway Commission shall not expend any money from the Highway Fund for any purpose not in this Act specifically provided for; nor shall the Highway Commission expend any money from the Highway Trust Fund except for the purposes for which the same is placed in Trust.

Section 4. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 5. This Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

CHAPTER 164.

An Act to Prevent the Procreation of Hereditary Idiots, Feebleminded, Insane, and Epileptics Who Are Inmates of State Custodial Institutions, by Authorizing and Providing for Eugenical Sterilization for Said Inmates.

Be it enacted by the Legislative Assembly of the State of Montana:

Act how designated.

Section 1. This Act shall be known as the "Eugenical Sterilization Law."

Definition of terms.

Section 2. For the purpose of the Act the following terms (a) heredity, (b) procreate, (c) custodial institu-

HeinOnline -- 1923 534 1923

tion, (d) inmate, (e) eugenical sterilization, are hereby defined as follows:

(a) HEREDITY in the human species is the transmission, through spermatozoon and ovum, of physical, physiological, and psychological qualities from parents to offspring.

(b) PROCREATE means to beget or to conceive offspring, and applies equally to males and females.

(c) CUSTODIAL INSTITUTION is a habitation which provides food and lodging, restraint, treatment, training, care or residence for inmates declared mentally delinquent through constituted legal channels.

(d) An INMATE is an idiot, feebleminded, insane or epileptic person who is treated, trained, or cared for within a custodial institution.

(e) EUGENICAL STERILIZATION is herein defined as vasectomy, or salpingectomy, or such adequate medical treatment which will surely and permanently nullify the power to procreate offspring, to achieve permanent sexual sterility and the highest therapeutic benefits to the patient.

Creation state board of eugenics.

Section 3. The State Board of Eugenics is hereby created and established for the State of Montana. It shall consist of: The chief physician of each custodial institution, the president of the State Medical Association, a female member named by the State Medical Association, and the Secretary of the State Board of Health, the last named to be Chairman of the Board.

Duties of board.

Section 4. DUTIES OF THE STATE BOARD OF EUGENICS. It shall be the duty of this board to approve or disapprove certificate of sterilization submitted to them by the chief physician of custodial institution of inmate as provided in Section 5 of this Act and to review the decision of the said chief physician in case of non-consent on the part of the guardian, or best friend as provided in Section 6. This board is also hereby empowered to exercise general supervision of matters pertaining to sterilization, over the chief physician and assistants in custodial institutions, and require from them proper records and data for the determination of the efficiency, benefits and specific efforts of eugenical sterilization.

Sterilization, how performed.

Section 5. RESPONSIBILITY FOR STERILIZATION. The sterilization shall be performed by, or under the supervision of the chief physician of the custodial

HeinOnline -- 1923 535 1923

institution of said inmate, whenever he, by his competent examination, and upon the approval of the State Board of Eugenics finds the said inmate or inmates, to fall within the above named class or classes; provided, however, that before this sterilization takes place it shall be the duty of the said chief physician to fill out appropriate certificate of said inmate or inmates to be sterilized and present same to the State Board of Eugenics and secure that board's approval thereof, (the approval to be evidenced by the appropriate endorsement on the back of said certificate by the secretary of said board).

Consent of guardian.

Section 6. CONSENT. Before making out the certificate mentioned in the above paragraph it shall be the duty of the physician to secure the consent of the legal guardian of said inmate and in case such inmate has no legal guardian, then the consent of his or her nearest known kin within the State of Montana and if such inmate has no known kin within the State of Montana, then the consent of the custodial guardian of such inmate. In all cases when this consent is refused, it should be noted on the certificate by the chief physician, and it then becomes his duty to notify the inmate and his guardian, or nearest known kin within the State of Montana, and in case such inmate has no known kin within the State of Montana, then the custodial guardian of such inmate, of the proposed sterilization, setting a date for him or them to appear before the State Board of Eugenics and to show cause why the sterilization should not take place. It shall then be the duty of the State Board of Eugenics to withhold the approval of the sterilization of said inmate until the said Board has heard and passed upon the merits of the objection. At the hearing it shall be the duty of the State Board of Eugenics either to approve or disapprove the sterilization.

Procedure on refusal.

Waiver of objections.

Failure of complainants to appear at the hearing after due notice shall be considered as a waiver of all objections.

Upon the approval of the State Board of Eugenics, the secretary thereof shall endorse the approval on the back of the sterilization certificate of the inmate, and the chief physician shall cause sterilization to proceed as though the consent were given.

Appeals.

All decisions of the State Board of Eugenics shall be appealable to the District Court of the district in which the custodial institution of the inmate is located by the

HeinOnline -- 1923 536 1923

objecting party or parties hereinbefore mentioned filing a petition against the State Board of Eugenics in the said court, in which case sterilization proceedings shall be suspended until final disposition of the case by the court.

Liability of members of board.

Section 7. LIABILITY. Neither the members of the State Board of Eugenics, the chief physicians, nor assistants concerned, nor any other persons legally participating in the execution of the provisions of this Act, shall be liable either civilly or criminally on account of said participation provided, however, that sterilization of the said inmate or inmates, by the chief physician of the custodial institution or his assistants, for other than the purpose named in the Act, or by fraud or duress, or without the approval of the State Board of Eugenics, shall constitute a felony punishable by a fine of not more than $1,000, or imprisonment in the state prison for no more than five years, or both.

Penalty.

Purpose of findings and orders.

Section 8. The purpose of said findings and orders of said Board and any operation performed thereunder, shall be for the betterment of the physical, mental, neural or psychic condition of said inmate, or to protect society from the menace of procreation by said inmate, and not in any manner as a punitive measure.

Section 9. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 10. This Act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1923.

CHAPTER 165.

An Act Appropriating Money for the Operation of the Montana State Fair for the Period Beginning July 1st, 1923, and Ending June 30th, 1925, and Amending Section 3645, Revised Codes of Montana of 1921 Relating to Income and Earnings of the Montana State Fair, Providing That Such Income and Earnings Shall Be Turned Into the State General Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3645 of the Revised Codes of Montana of 1921 be and the same is hereby amended to read as follows:

HeinOnline -- 1923 537 1923

Certain earnings of dept. of agriculture appropriated to its use.

"Section 3645. All fees and earnings of the Department of Agriculture, Labor and Industry and its Divisions and Activities from whatsoever source they may be derived, except the income and earnings of the Montana State Fair, and all contributions which may be received from Public or Private Bounty, are hereby annually and perpetually appropriated for the use of said Department of Agriculture, Labor and Industry. All Moneys received by the Department of Agriculture, Labor and Industry in the Administration of all Laws and the Management of the Institutions under its control, belonging to or for the use of the State, shall be deposited with the State Treasurer on the tenth and twenty-fifth days of each month without deduction of any sort on account of salaries, fees, costs, charges, or expenses, or otherwise, and shall be credited to the General Fund of the State of Montana. All fees and Earnings of the Montana State Fair, excepting Income from the sale or rental of the Capital Assets of said Fair, shall be deposited with the State Treasurer, without deduction of any sort, and shall be credited by him to the General Fund of the State for the use and benefit of the General Fund. The State Auditor shall keep upon his books an account to be known as the "Department of Agriculture Revolving Appropriation Account," to which shall be credited all other General Fund receipts arising from all operations of the Department of Agriculture, Labor, and Industry other than the State Fair, and from which shall be paid such other claims of the Department of Agriculture. Labor, and Industry as may be designated by the State Board of Examiners. The State Board of Examiners may, in its discretion, by resolution duly adopted and entered upon the minutes of said Board, authorize the Establishment and Maintenance in the business office of the Department of Agriculture, Labor, and Industry or any of its divisions, one or more contingent revolving accounts, transferring in trust to said Department such sum or sums of money as may appear necessary for the payment of demands requiring immediate cash payment, under specific regulations to be established by said Board of Examiners. But each and every division so granted a contingent revolving account shall report to the State Board of Examiners MONTHLY all transactions involving such contingent revolving accounts, with proper vouchers for every payment made therefrom. The State Board of Examiners may cancel or modify such authori-

Deposit of moneys in general fund of state.

Fees and earnings of state fair.

Dept of agriculture revolving appropriation acct.

Establishment contingent revolving accounts.

Reports to board of examiners.

Examiners may modify.

HeinOnline -- 1923 538 1923

zations and recall such funds or any part thereof at pleasure; provided, however, that nothing in this act shall be construed as preventing the establishment and maintenance by the State Board of Examiners of contingent revolving accounts in the divisions of grain standards and marketing, of horticulture, and of labor and publicity, transferring in trust to the business offices of such divisions such sums of money as may appear necessary to be used by said divisions for the payment of demands, requiring immediate cash payment in connection with grain grading and inspection, orchard spraying and fruit and nursery stock inspection, and in conducting the State Fair, under specific regulations to be established by said Board of Examiners. But each and every division granted a contingent revolving account shall report to the State Board of Examiners monthly all transactions involving such contingent revolving accounts, with proper vouchers for every payment made therefrom. The State Board of Examiners may cancel such authorizations and recall such funds at pleasure."

Proviso.

Section 2. That the following sum or so much thereof as may be necessary be and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the payment of salaries and other expenses of the Montana State Fair for the year beginning July 1, 1923, and ending June 30th, 1924 ..... $60,000.00

State fair appropriation for 1923.

Section 3. That the following sum or so much thereof as may be necessary be and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the payment of salaries and other expenses of the Montana State Fair for the year beginning July 1, 1924, and ending June 30th, 1925 ..... $60,000.00

1924 appropriation.

Section 4. That all Acts and Parts of Acts in conflict herewith are hereby repealed.

Section 5. This Act shall be in full force and effect after its passage and approval.

Approved March 16, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal. March 15, 1923.

HeinOnline -- 1923 539 1923

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:—

I am transmitting herewith House Bill No. 391,

"An Act appropriating money for the operation of the Montana State Fair for the period beginning July 1, 1923, and ending June 30, 1925, and amending Section 3645, Revised Codes of Montana of 1921 relating to income and earnings of the Montana State Fair, providing that such income and earnings shall be turned into the state general fund."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from Section 2 thereof as follows:

As to the item in said bill "For the payment of salaries and other expenses of the Montana State Fair for the year beginning July 1, 1923, and ending June 30, 1924, $60,000.00," I withhold my approval from said sum of $9,000.00, or the equivalent of fifteen per cent (15%), and approve the same only in the sum of $51,000.00.

From the item of appropriation set forth in Section 3 of said bill, I withhold my approval as follows:

As to the item in said bill "For the payment of salaries and other expenses of the Montana State Fair for the year beginning July 1, 1924, and ending June 30, 1925, $60,000.00," I withhold my approval from said sum of $9,000.00, or the equivalent of fifteen per cent (15%), and approve the same only in the sum of $51,000.00.

I take this action in withholding approval of specific sums and percentages as set forth above as against the various items of appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general

HeinOnline -- 1923 540 1923

fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general fund deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above various items of appropriation in the amounts above specifically set forth, in order to bring the revenues of the state for the fiscal years for which the appropriations bove set forth have been made within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I herewith approve the bill.

Yours very respectfully

(Signed) Jos. M. Dixon,
Governor.

HeinOnline -- 1923 541 1923

HeinOnline -- 1923 542 1923

APPROPRIATIONS
MEMORIALS AND RESOLUTIONS

ENACTED BY THE

Eighteenth Legislative Assembly

STATE OF MONTANA

1923

HeinOnline -- 1923 543 1923

HeinOnline -- 1923 544 1923

HOUSE BILL NO. 2.

An Act to Appropriate Money for the Payment of Mileage and Per Diem of the Members of the Eighteenth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred and Ten Thousand Dollars ($110,000) or so much thereof as may be necessary, be, and the same is hereby appropriated out of the money in the State Treasury, not otherwise appropriated, for the payment of the mileage and per diem of the members of the Eighteenth Legislative Assembly of the State of Montana.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved January 5, 1923.

HOUSE BILL NO. 3.

An Act to Appropriate Money for the Payment of the Per Diem of the Officers and Attaches of the Eighteenth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Thirty-five Thousand Dollars ($35,000), or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, for the payment of the per diem of the officers and attaches of the Eighteenth Legislative Assembly of the State of Montana.

Section 2. That this Act shall be in full force and effect from and after its passage and approval.

Approved January 11, 1923.

HOUSE BILL NO. 4.

An Act to Appropriate Money for the Incidental Expenses of the Eighteenth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Fifteen Thousand Dollars ($15,000) or so much thereof as may be necessary, be, and the same is hereby appropriated, out of any money in the State Treasury, not otherwise appropriated, to pay the incidental expenses of the Eighteenth Legislative Assembly of the State of Montana.

HeinOnline -- 1923 545 1923

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved January 9, 1923.

HOUSE BILL NO. 157.

An Act to Appropriate Money Out of the State Highway Fund for the Payment of Claims for Labor and Services and for Material and Supplies Furnished in the Construction of State Highways Designated as Federal Aid Projects Numbers 66 and 101.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Thirty Thousand Dollars ($30,000.00), or so much thereof as may be necessary, be, and the same is hereby appropriated out of the State Highway Fund to pay deficiency claims for labor and services and for material and supplies furnished and performed in the construction of State Highways designated as Federal Aid Projects Numbers 66 and 101.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

HOUSE BILL NO. 165.

An Act Appropriating Money for the Maintenance of the Industrial Accident Board for the Fiscal Year Beginning July 1, 1922, and Ending June 30, 1923, and to Rectify a Mis-appropriation Made by the Seventeenth Legislative Session.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Twenty-five thousand ($25,000.00) Dollars or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any moneys in the State Treasury, not otherwise appropriated, and to be paid out of the Industrial Administrative Fund, for the payment of salaries and other expenses of the Industrial Accident Board, for the fiscal year beginning July 1, 1922 and ending June 30, 1923.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1923.

HeinOnline -- 1923 546 1923

HOUSE BILL NO. 222.

An Act Appropriating Money for the Operation and Maintenance of Certain of the State Institutions of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924; provided, however, that of this amount no warrants shall be drawn against the General Fund until the Revolving and all other Funds shall have been exhausted.

For the payment of salaries and other expenses at the Montana Soldiers' Home, Forty-two Thousand, Eight Hundred, Ten Dollars 42,810.00

For addition to the Hospital and improvement of the heating plant, Forty Thousand Dollars 40,000.00

For the payment of salaries and other expenses of the Montana State Tuberculosis Sanitarium, One Hundred Thirty-three Thousand, Two Hundred Dollars 133,200.00

For the payment of salaries and other expenses of the Montana Vocational School for Girls, Forty Thousand Seven Hundred, Fifty-seven Dollars 40,757.00

For the payment of salaries and other expenses of the Montana School for the Deaf and Blind One Hundred Fifty Three Thousand, Six Hundred Fifty Dollars 153,650.00

For the payment of salaries and other expenses of the State Orphans' Home, Ninety-three Thousand, Six Hundred Fifty Dollars 93,650.00

For the payment of salaries and other expenses of the Montana State Industrial School, Sixty-six Thousand Four Hundred, ninety-five Dollars 66,495.00

Section 2. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any of the moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purpose herein designated, for the year beginning July 1st, 1924 and ending June 30th, 1925; provided, however, that of this amount no warrant shall be drawn against the General Fund until the Revolving and all other Funds shall have been exhausted.

For the payment of salaries and other expenses of the Montana Soldiers' Home, Forty Thousand Dollars 40,000.00

HeinOnline -- 1923 547 1923

For the payment of salaries and other expenses at the Montana State Tuberculosis Sanitarium, One Hundred Thirty-three Thousand, Two Hundred Dollars	133,200.00
For the payment of salaries and other expenses of the Montana Vocational School for Girls, Forty Thousand, Seven Hundred Fifty-seven Dollars	40,757.00
For the payment of salaries and other expenses of the Montana School for the Deaf and Blind, One Hundred Fifty Thousand Dollars	150,000.00
For the payment of salaries and other expenses of the State Orphans' Home, Eighty-nine Thousand One Hundred Fifty Dollars	89,150.00
For the payment of salaries and other expenses of the Montana State Industrial School, Sixty-three Thousand Nine Hundred Ninety-five Dollars	63,995.00

Provided that should this Act or any part thereof be attacked of its constitutionality questioned in any court proceedings, then and in that event it is hereby declared the intent of the Legislative Assembly to appropriate in each of the various items embraced in Section 2 hereof, the twelve (12) equal amounts for each year for two years beginning July 1st, 1923 and ending June 30th, 1925, and that any decision affecting the constitutionality of this Act shall affect only that portion of said appropriation items for the months of March, April, May and June for the year 1925, and shall not affect any other part or portion of said appropriation. The amounts appropriated by the foregoing Sections of this Act are hereby declared to be the maximum amounts which may be expended by each institution hereinabove specified for all purposes and from all funds during the fiscal years ending June 30, 1924, and June 30, 1925, it being the intent of this Act that the maximum amounts herein appropriated shall be the maximum for each institution from all funds and that only so much shall be taken from the General Funds as is necessary to make up the maximum appropriation, after first exhausting the corresponding Revolving Appropriation Accounts, Interest and Income Fund Accounts and any or all other fund accounts from which payment may be made for the benefit of the institutions hereinabove specified.

Section 3. This Act shall be in full force and effect from and after July 1st, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

HeinOnline -- 1923 548 1923

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:—

I am transmitting herewith House Bill No. 222.

"An Act appropriating money for the operation and maintenance of certain of the state institutions of the State of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill, contained in Section 1 thereof, as follows:

As to the item in said bill, "For the payment of salaries and other expenses at the Montana Soldiers' Home, $42,810.00," I withhold my approval from said sum of $2,996.70, or the equivalent of seven per cent (7%), and approve the same only in the sum of $39,813.30.

As to the item in said bill, "For the addition to the Hospital and improvements of the heating plant, $40,000,000," I withhold my approval from said sum of $8,000.00, or the equivalent of twenty per cent (20%), and approve the same only in the sum of $32,000.00.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana State Tuberculosis Sanitarium, $133,200.00," I withhold my approval from said sum of $9,324.00, or the equivalent of seven per cent (7%), and approve the same only in the sum of $123,876.00.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana Vocational School for Girls, $40,757.00." I withhold my approval from said sum of $2,852.99, or the equivalent of seven per cent (7%), and approve the same only in the sum of $37,904.01.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana School for the Deaf and Blind, $153,650.00," I withhold my approval from said sum of $10,755.50, or the equivalent of seven per cent (7%), and approve the same only in the sum of $142,894.50.

As to the item in said bill, "For the payment of salaries and other expenses of the State Orphans' $93,650.00," I withhold my approval from said sum of $6,555.50, or the equivalent of seven per cent (7%), and approve the same only in the sum of $86,994.50.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana State Industrial School, $66,495.00,"

HeinOnline -- 1923 549 1923

I withhold my approval from said sum of $4,654.65, or the equivalent of seven per cent (7%), and approve the same only in the sum of $61,840.35.

From the items of appropriation set forth in Section 2 of said bill, I withhold my approval as follows:

As to the item in said bill, "For the payment of salaries and other expenses of the Montana Soldiers' Home, $40,000.00," I withhold my approval from said sum of $2,800, or the equivalent of seven per cent (7%), and approve the same only in the sum of $37,200.00.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana State Tuberculosis Sanitarium, $133,200.00," I withhold my approval from said sum of $9,324.00, or the equivalent of seven per cent (7%), and approve the same only in the sum of $123,876.00.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana Vocational School for Girls, $40,757.00," I withhold my approval from said sum of $2,852.99, or the equivalent of seven per cent (7%), and approve the same only in the sum of $37,904.01.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana School for the Deaf and Blind, $150,000.00," I withhold my approval from said sum of $10,500.00, or the equivalent of seven per cent (7%), and approve the same only in the sum of $139,500.00.

As to the item in said bill, "For the payment of salaries and other expenses of the State Orphans' Home, $89,150.00," I withhold my approval from said sum of $6,240.50, or the equivalent of seven per cent (7%), and approve the same only in the sum of $82,909.50.

As to the item in said bill, "For the payment of salaries and other expenses of the Montana State Industrial School, $63,995.00," I withhold my approval from said sum of $4,479.65, or the equivalent of seven per cent (7%), and approve the same only in the sum of $59,515.35.

I take this action in withholding approval of specific sums and percentages, as set forth above, as against the various items of appropriation, on account of the provisions of Section 12 of Article XII, of the State Constitution, which provides:

> "No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

HeinOnline -- 1923 550 1923

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general fund deficit for that fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above items of appropriation, in the amounts specifically set forth, in order to bring the revenues of the state for the fiscal years, for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

Jos. M. Dixon, Governor.

HOUSE BILL NO. 268.

An Act Appropriating Money to Pay Balance Unpaid on Judgment in Favor of the General Electric Company and Against C. T. Stewart, as Secretary of State, for Fees Illegally Collected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of $548.69 is appropriated out of any funds in the state treasury, not otherwise appropriated, for the payment of the balance unpaid on a judgment recovered in the District Court of the First Judicial District of the State of Montana, in and for the County of Lewis and Clark, by the General Electric Company against C. T. Stewart, as Secretary of State.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

HOUSE BILL NO. 271.

An Act Making an Appropriation to Pay the Salaries, Compensation and Expenses of the Assistants and Clerks of the Old State Board of Equalization and the Office Expenses Incurred in Connection With the Work of the Old State Board of Equalization During the Interim Between the Adoption of the Amendment to Section 15 of Article 12 of the Constitution, December 15, 1922, and the time of the Organization of the New State Board of

HeinOnline -- 1923 551 1923

Equalization Under Such Constitutional Amendment, on February 3, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three thousand three hundred and ninety one ($3,391.00) Dollars be, and the same is hereby, appropriated out of any moneys in the general fund of the State of Montana, not otherwise appropriated, for the purpose of paying the salaries, compensation and expenses of the assistants and clerks of the old State Board of Equalization, and the office expenses incurred in connection with the work of the old State Board of Equalization during the interim between the adoption of the amendment of Section 15 of Article 12 of the Constitution, December 15th, 1922, and the time of the organization of the new State Board of Equalization under such constitutional amendment, on February 3, 1923

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

HOUSE BILL NO. 303.

An Act to Appropriate Money for the Construction of a Children's Pavilion at the State Tuberculosis Sanitarium at Galen, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Twenty Thousand Dollars ($20,000.00) or so much thereof as shall be necessary, is hereby appropriated out of the General Fund of the State of Montana for the purpose of constructing a children's pavilion at the State Tuberculosis Sanitarium at Galen, Montana.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:—

I am transmitting herewith House Bill No. 303.

"An Act to appropriate money for the construction of a children's pavilion at the State Tuberculosis Sanitarium at Galen, Montana.".

HeinOnline -- 1923 552 1923

Under the provisions of section 13, of Article VII of the Constitution, I withhold my approval from Section 1 of said bill as follows:

"For the purpose of constructing a children's pavilion of the State Tuberculosis Sanitarium at Galen, Montana, $20,000.00," I withhold my approval from said sum of $4,000.00, or the equivalent of twenty percent (20%), and approve the same only in the sum of $16,000.00.

I take this action in withholding approval of a specific sum and percentage, as set forth above, as against the two items of appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

> "No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general fund deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my aprpoval of the above items of appropriation in the amount specifically set forth in order to bring the revenues of the state for the fiscal years for which the appropriation above set forth has been made within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

(Signed) Jos. M. Dixon,
Governor.

HOUSE BILL NO. 309.

An Act to Appropriate $773.92 to W. D. Delphy in Settlement for Expenses Incurred During the Years 1918, 1919 and 1920 While Serving in the Capacity of State Deputy Game Warden.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of $773.92 or so much thereof as may be necessary be and the same is hereby appropriated out of the Fish and Game Fund now in the State Treasury for the payment

HeinOnline -- 1923 553 1923

to W. D. Delphy for expenses incurred as State Deputy Game Warden for the years 1918, 1919, and 1920.

Section 2. This act shall be in full force and effect from and after date of its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 323.

An Act to Appropriate Money From the Industrial Accident Fund of the State of Montana for the Payment of the Claim of Sam Nestor Which Was Disallowed by Said Board Because the Claim Was Not Presented Within Six Months.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of $1975.00 is hereby appropriated out of any money in the Industrial Accident Fund of the State of Montana for the payment of the Claim of Sam Nestor of Billings, Montana, which claim was disallowed by the Industrial Accident Board because the same was not presented within six months from the date of the happening of the accident.

Section 2. The Industrial Accident Board is hereby authorized to pay out of the Industrial Accident Fund to the said Sam Nestor the said amount.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved March 7, 1923.

HOUSE BILL NO. 359.

An Act Appropriating Money for the Operation and Maintenance of Certain of the Boards, Commissions and Departments of the State of Montana for the Period Beginning July 1st, 1923 and Ending June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1st., 1923, and ending June 30th., 1924.

For all salaries and expenses of the Governor's Office,

Fifteen Thousand, Six Hundred Ten Dollars 15,610.00

For requisitions, Five Thousand Dollars 5,000.00

HeinOnline -- 1923 554 1923

For operation and maintenance of the Governor's mansion, Four Thousand, Six Hundred Seventy-five Dollars 4,675.00

For salaries and expenses of the Supreme Court, Fifty-five Thousand, One Hundred Thirty Dollars 55,130.00

For salaries and expenses of the State Law Library, Thirteen Thousand, Seven Hundred Fifty-nine Dollars 13,759.00

For salaries and expenses of the State Historical and Miscellaneous Library, Four Thousand, Eight Hundred Dollars 4,800.00

For the salaries and expenses of the State Board of Examiners, Ten Thousand Dollars 10,000.00

For the salaries and expenses of the Veteran's Welfare Commission, Fifteen Thousand Dollars 15,000.00

Section 2. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed for the year beginning July 1st, 1924 and ending June 30th, 1925.

For all salaries and expenses of the Governor's Office, Fifteen Thousand, Five Hundred Ten Dollars 15,510.00

For requisitions, Five Thousand Dollars 5,000.00

For operation and maintenance of the Governor's mansion, Four Thousand, Six Hundred Seventy-five Dollars 4,675.00

For salaries and expenses of the Supreme Court, Fifty-two Thousand, Five Hundred Eighty Dollars 52,580.00

For salaries and expenses of the State Law Library, Nine Thousand, Four Hundred Ninety-Four Dollars 9,494.00

For salaries and expenses of the State Historical and Miscellaneous Library, Four Thousand, Eight Hundred Dollars 4,800.00

For salaries and expenses of the State Board of Examiners, Twelve Thousand and Fifty Dollars 12,050.00

For the salaries and expenses of the Veteran's Welfare Commission, Ten Thousand Dollars 10,000.00

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

HeinOnline -- 1923 555 1923

STATE OF MONTANA, OFFICE OF THE GOVERNOR, Helena.
Jos. M. Dixon, Governor.
Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:

I am transmitting herewith House Bill No. 359,

"An act appropriating money for the operation and maintenance of certain of the boards, commissions and departments of the State of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill, contained in Section 1 thereof, as follows:

As to the item in said bill "For salaries and expenses of the Governor's office $15,610.00," I withhold my approval from said sum of $1,561.00 or the equivalent of ten per cent (10%) of said item, and approve the same only in the sum of $14,940.00.

As to the item in said bill "For reqisitions, $5,000," I withhold my approval from said sum of $1,000.00, or the equivalent of twenty per cent (20%) of said item, and approve the same only in the sum of $4,000.00.

As to the item in said bill "For operation and maintenance of the Governor's mansion, $4,675.00," I withhold my approval from said sum of $701.25, or the equivalent of fifteen per cent (15%) of said item, and approve the same only for the sum of $3,973.75.

As to the item in said bill "For salaries and expenses of the Supreme Court, $55,130.00," I withhold my approval from said sum of $2,756.60, or the equivalent of five per cent (5%) of said item, and approve the same only for the sum of $52,373.40.

As to the item in said bill "For salaries and expenses of the State Law Library, $13,759.00," I withhold my approval from said sum of $2,063.85, or the equivalent of fifteen per cent (15%) of said item and approve the same only for the sum of $11,695.15.

As to the item in said bill, "For salaries and expenses of the State Historical and Miscellaneous Library, $4,800.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the salaries and expenses of the State Board of Examiners, $10,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the salaries and expenses of the Veteran's Welfare Commission, $15,000.00," I withhold my approval from $2,250.00 of said sum, or the equivalent of fifteen per cent (15%) of said item, and approve the same only for the sum of $12,750.00.

HeinOnline -- 1923 556 1923

From the items of appropriation set forth in Section 2 of said bill, the same being the appropriations for the year beginning July 1, 1924, and ending June 30, 1925, I withhold my approval as follows:

As to the item of $15,610.00 appropriated "for the salaries and expenses of the Governor's office, I withhold my approval of ten per cent (10%) of said amount, which is the equivalent of $1,561.00, and I approve said item in the sum of $14,049.00 only.

As to the item in said bill "for requisitions, $5,000.00," I withhold my approval from said sum of $1,000.00, or the equivalent of twenty per cent (20%) of said item, and approve the same only in the sum of $4,000.00.

As to the item in said bill "For operation and maintenance of the Governor's mansion, $4,675.00," I withhold my approval from said sum of $701.25, or the equivalent of fifteen per cent (15%) of said item, and approve the same only in the sum of $3,975.75.

As to the item in said bill "For salaries and expenses of the Supreme Court, $52,580.00," I withhold my approval from said sum of $2,629.00, or the equivalent of five per cent (5%) of said item, and approve the same only for the sum of $49,951.00.

As to the item in said bill "For salaries and expenses of the State Law Library, $9,494.00," I withhold my approval from said sum of $949.40, or the equivalent of ten per cent (10%) of said item and approve the same only for the sum of $8,544.60.

As to the item in said bill "For salaries and expenses of the State Historical and Miscellaneous Library, $4,800.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For salaries and expenses of the State Board of Examiners, $12,050.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the salaries and expenses of the Veteran's Welfare Commission, $10,000.00," I withhold my approval from $1,500.00 of said sum, or the equivalent of fifteen per cent (15%) of said item, and approve the same only for the sum of $8,500.00.

I take this action in withholding my approval of specific sums and percentages as set forth above as against the various items of appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

> "No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided for by law,"

and in view of the fact that on March 13, 1923, the State Auditor George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of

HeinOnline -- 1923 557 1923

the appropriation made by the Eighteenth Legislative Assembly from the general fund of the State would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29 and that the general fund deficit for the fiscal year 1924-1925 will approximately be a similar sum.

I have, therefore, withheld my approval of the above various items of appropriation in the amounts above specifically set forth in order to bring the revenues of the State for the fiscal years for which the appropriations above set forth have been made within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I herewith approve the bill.

Yours very respectfully,

Jos. M. Dixon,
Governor.

HOUSE BILL NO. 360.

An Act Appropriating Money for the Payment of Deficiency Claims Arising out of the Operation of the Various State Institutions of the State of Montana for the Year Ending February 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the purpose of paying deficiency claims arising out of the operation of various State Institutions for the year ending February 28th, 1923, to-wit:

School for Deaf and Blind	$ 39.20
School of Mines	261.65
State Industrial School	170.17
Students Refund	18.49
Montana Extension Service	339.41
Insane Asylum	6,836.69
State Prison	7,183.10

Section 2. Such deficiency claims shall be allowed and paid from the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This Act shall be in full force, and effect from and after its passage and approval.

Approved March 14, 1923.

HeinOnline -- 1923 558 1923

HOUSE BILL NO. 361.

An Act Appropriating Money for the Payment of Deficiency Claims on Account of Refunds Becoming Due During the Year Ending February, 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims on account of the refunds of taxes becoming due during the year ending February 28th, 1923, to-wit:—

Treasurer of Hill County	$22.99
Treasurer of Hill County	21.75
Beaverhead Ranch Company	836.07
Treasurer of Gallatin County	5.31
Dawson County	20.42
Sanders County	7.50
Sheridan Co. County Commissioners	4.85
Sheridan County	3.93
Comertown Hdw. Co.	9.33
Mrs. Stella Fince	2.89
Deer Lodge Lumber Co.	1.00
I. A. Goddard	10.55

Section 2. Such deficiency claims shall be allowed and paid from the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This Act shall be in full force, and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 362.

An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of Various State Departments for the Year Ending June 30th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims arising out of the operation of

HeinOnline -- 1923 559 1923

various state departments for the year ending June 30th, 1923, to-wit:—

Board of Hail Insurance	$17.15
State Board of Poultry Husbandry	278.61
State Board of Examiners	159.00
Consolidated Boards	8.75
Historical Library	91.20
Adjutant General	43.40
Department of Agriculture	2.25
State Fair	7,406.83
Supreme Court	1.25
Public Printing	238.00
Child and Animal Protection	114.82
Department of Public Instruction	11.40
Inspection Coal Mines	15.35
Governor's Mansion	12.16
National Guard	196.28
Department of Agriculture	
Bd. of Terminal Elevators	135.00
Horticultural Inspection	5.25

Section 2. Such deficiency claims shall be allowed and paid from the appropriation hereby made, upon the approval of said claim by the State Board of Examiners.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 367.

An Act Appropriating Money for the Return of the Inheritance of Giuseppe Marchi, Which Has Escheated to the State Under the Mistake That No Heir Existed.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of one hundred ninety-seven and 63-100 ($197.63) dollars be and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated, for the return of the Inheritance of Giuseppe Marchi as sole heir of Tony Marchi (or as sometimes called Antonio Marchi), deceased, this money having escheated to the State of Montana under the mistake that no heir of said Tony Marchi existed.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.

HeinOnline -- 1923 560 1923

HOUSE BILL NO. 373.

An Act to Appropriate Money Out of the State Highway Fund for the Payment of Claims for Labor and Services Furnished in the Construction of the State Highway Designated as Federal Aid Projects Number 109.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Thirty-four Hundred ($3400.) Dollars, or as much thereof as may be necessary, be, and the same is hereby appropriated out of the State Highway Fund to pay deficiency claims for labor and services performed in the construction of the State Highway designated as Federal Aid Project Number 109, subject to the authorization of the Board of Examiners, by L. C. Thomas and the money hereby appropriated shall be paid to said L. C. Thomas.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

HOUSE BILL NO. 384.

An Act Appropriating Money for the Payment of Deficiency Claims on Account of Transporting of Prisoners Becoming Due During the Year Ending February 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims on account of transporting prisoners, becoming due during the year ending February 28th, 1923, to-wit:

Larry Dugan, Sheriff Silver Bow	$ 11.54
H. F. Becker, Sheriff's Office, Blaine Co.	198.65
W. H. Houston, Sheriff Missoula Co.	12.00
W. H. Houston, Sheriff Missoula Co.	123.69
County Auditor, Yellowstone Co.	811.95
Roosevelt County	1,046.67

Section 2. Such deficiency claims shall be allowed and paid from the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HeinOnline -- 1923 561 1923

HOUSE BILL NO. 385.

An Act Appropriating Money for the Payment of Deficiency Claims on Account of Legislative Printing of the Seventeenth Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three Thousand Four Hundred forty-six Dollars and Eighty-nine cents, ($3,446.89), or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys, in the State Treasury not otherwise appropriated, for the purpose of paying the State Publishing Company for Legislative Printing of the Seventeenth Legislative Assembly, 1921, becoming due during the year ending February 28th, 1923, to-wit:

300 copies House Journals	$3,150.98
Preparing Indexes House & Senate Journals	277.50
Wrapping 54 Package & Parcel Post	18.41

Section 2. Such deficiency claims shall be allowed and paid upon the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This Act shall be in full force, and effect from and after its passage and approval.

Approved March, 14, 1923.

HOUSE BILL NO. 386.

An Act Appropriating Money for the Payment of Deficiency Claims on Account of Feeding Drug Addicts Becoming Due During the Year Ending February, 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims on account of Feeding Drug Addicts becoming due during the year ending February 28th, 1923, to-wit:

Larry Dugan, Sheriff, Silver Bow County	$ 64.00
Larry Dugan, Sheriff, Silver Bow County	7.00
Larry Dugan, Sheriff, Silver Bow County	314.00
Larry Dugan, Sheriff, Silver Bow County	205.00
Larry Dugan, Sheriff, Silver Bow County	397.00
Larry Dugan, Sheriff, Silver Bow County	31.00
Larry Dugan, Sheriff, Silver Bow County	7.00
Larry Dugan, Sheriff, Silver Bow County	30.00
Larry Dugan, Sheriff, Silver Bow County	244.00

HeinOnline -- 1923 562 1923

Section 2. Such deficiency claims shall be allowed and paid from the appropriation hereby, made, upon the approval of said claims by the State Board of Examiners.

Section 3. This Act shall be in full force, and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 387.

An Act Appropriating Money for the Payment of Deficiency Claims on Account of Requisitions Becoming Due During the Year Ending February 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims on account of Requisitions, becoming due during the year ending February 28th, 1923, to-wit:

Larry Dugan, Sheriff, Silver Bow County	$736.64
Harry Holland, Powell County	166.66
Wm. Requiam, Teton County	330.00

Section 2. Such deficiency claims shall be allowed and paid upon the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This act shall be in full force, and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 388.

An Act Appropriating Money for the Payment of Deficiency Claims of Various Claimants for the Year 1919, as Provided by Chapter 49, of the Laws of Montana 1915.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three Thousand, Seven Hundred twenty-eight Dollars and Seventy-five Cents, ($3,728.75), or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims on account of various claimants, known as the Firemens' Disability Fund, for the year 1919, as provided by Chapter 49, of the Laws of Montana, 1915.

HeinOnline -- 1923 563 1923

Section 2. Such deficiency claim shall be allowed and paid from the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 389.

An Act Appropriating Money for the Operation and Maintenance of the Industrial Accident Board and for the Operation, Maintenance and Payment of Training Expenses of the Work of Vocational Rehabilitation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of the Industrial Administrative Fund of the State of Montana for the objects and purposes hereinafter expressed for the year beginning July 1st, 1923, and ending June 30th, 1924.

For the payment of salaries and expenses of the Industrial Accident Board, fifty-four thousand dollars, $54,000.00.

Section 2. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of the Industrial Administrative Fund of the State of Montana for the objects and purposes hereinafter expressed for the year beginning July 1st, 1924, and ending June 30th, 1925. Provided there is not enough money in said fund, the remainder shall be paid out of the general fund. For the payment of salaries and expenses of the Industrial Accident Board, fifty-four thousand dollars, $54,000.00.

"Section 3. That there is hereby appropriated out of the General Fund of the State of Montana for the purpose of the payment of salaries and expenses and the payment of training expenses of the work of Vocational Rehabilitation, the sum of Fifteen Thousand Dollars, $15,000.00 or so much thereof as may be necessary for the year beginning July 1st, 1923 and ending June 30th, 1924."

"Section 4. That there is hereby appropriated out of the General Fund of the State of Montana for the purpose of the payment of salaries and expenses and the payment of training expenses of the work of Vocational Rehabilitation, the sum of Fifteen Thousand Dollars $15,000.00 or so much thereof as may be necessary for the year beginning July 1, 1924 and ending June 30, 1925."

"Section 5. All acts and parts of acts in conflict herewith are hereby repealed."

HeinOnline -- 1923 564 1923

"Section 6. This act shall be in full force and effect from and after its passage and approval."

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:—

I am transmitting herewith House Bill No. 389,

"An Act appropriating money for the operation and maintenance of the Industrial Accident Board and for the operation, maintenance and payment of training expenses of the work of vocational rehabilitation."

I hereby approve the appropriations in full as set forth in Sections 1 and 2 of said bill.

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from Section 3 of said bill as follows:

As to said item of this bill "For the purpose of the payment of salaries and expenses and the payment of training expenses of the work of Vocational Rehabilitation, $15,000.00, I withhold my approval from said sum of $1,500.00 or the equivalent of ten per cent (10%), and approve the same only in the sum of $13,500.00.

From the item of appropriation set forth in Section 4 of said bill, I withhold my approval as follows:

As to said item of this bill "For the purpose of the payment of salaries and expenses and the payment of training expenses of the work of Vocational Rehabilitation, $15,000.00, I withhold my approval from said sum of $1,500.00 or the equivalent of ten per cent (10%), and approve the same only in the sum of $13,500.00.

I take this action in withholding approval of specific sums and percentages as set forth above as against the two items of appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924

HeinOnline -- 1923 565 1923

in the sum of $363,539.29, and that the general fund deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above items of appropriation in the amounts above specifically set forth, in order to bring the revenues of the state for the fiscal years for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,
(Signed) Jos. M. Dixon, Governor.

HOUSE BILL NO. 390.

An Act Appropriating Money for the Payment of Deficiency Claims Arising out of the Operation of Various State Departments for the Year Ending February 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims arising out of the operation of various State Departments for the year ending February 28th, 1923, to-wit:

Board of Medical Examiners	$2,784.24
Text Book Commission	93.41

Section 2. Such deficiency claims shall be allowed and paid from the appropriation hereby made, upon the approval of said claim by the State Board of Examiners.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO 393.

An Act Appropriating Money to Reimburse James L. Stillwell for Moneys Expended and Loss Sustained in Defense of Titles to Certain Lands Purchased from the State Board of Land Commissioners upon which he was Subsequently Contested.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Seven Hundred Seventy-seven Dollars and Fifty cents ($777.50) be, and the same is hereby appropriated out of any money in the State Treasury not otherwise ap-

HeinOnline -- 1923 566 1923

propriated, for the purpose of reimbursing the said James L. Stillwell for money expended and loss incurred in defense of the title to certain lands purchased from the State Board of Land Commissioners of the State of Montana, upon which lands he was subsequently contested, before the Department of the Interior.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 395.

An Act Appropriating Money for the Operation and Maintenance of certain of the State Institutions of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924; provided, however, that of this amount no warrants shall be drawn against the General Fund until the Revolving and all other Funds shall have been exhausted.

For the payment of salaries and other expenses of the Montana State Prison, One Hundred Eighty-one Thousand, Seven Hundred Fifty-five Dollars $181,755.00

$2500.00 of the above $181,755.00 be used to defray parole expenses.

For the payment of salaries and other expenses of the Montana State Hospital, Four Hundred and Ninety-four Thousand Dollars $494,000.00

Section 2. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any of the moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purpose herein designated, for the year beginning July 1st, 1924 and ending June 30th, 1925; provided, however, that of this amount no warrants shall be drawn against the General Fund until the Revolving and all other Funds shall have been exhausted.

For the payment of salaries and other expenses of the Montana State Prison, One Hundred and Sixty-six Thousand, Two Hundred and Five Dollars $166,205.00

$2500.00 of the above $166,205.00 be used to defray parole expenses.

HeinOnline -- 1923 567 1923

For the payment of salaries and other expenses of the Montana State Hospital, Four Hundred and Ninety-four Thousand Dollars. $494,000.00

Section 3. This Act shall be in full force and effect from and after July 1st, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

March 15, 1923.

Hon. Chas. T. Stewart.
Secretary of State,
Helena, Montana.

Dear Sir:—

I am transmitting herewith House Bill 395,

"An Act appropriating money for the operation and maintenance of certain of the state institutions of the State of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill, contained in Section 1 thereof, as follows:

As to the item in said bill "For the payment of salaries and other expenses of the Montana State Prison, $181,755.00," I withhold my approval from said sum of $9,087.75, or the equivalent of five per cent (5%), and approve the same only in the sum of $172,-668.25.

As to the item in said bill "For the payment of salaries and other expenses of the Montana State Hospital, $494,000.00," I withhold my approval from said sum of $49,400.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $444,-600.00.

From the items of appropriation set forth in section 2 of said bill, I withhold my approval as follows:

As to the item in said bill "For the payment of salaries and other expenses of the Montana State Prison, $166,205.00." I withhold my approval from said sum of $8,310.25, or the equivalent of five per cent (5%), and approve the same only in the sum of $157,-894.75.

As to the item in said bill "For the payment of salaries and other expenses of the Montana State Hospital, $494,000.00." I withhold my approval from said sum of $49,400, or the equivalent of ten per cent (10%), and approve the same only in the sum of $444,600.00.

I take this action in withholding approval of specific sums and percentages, as set forth above, as against the various items of appropriation, on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

HeinOnline -- 1923 568 1923

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above items of appropriation, in the amounts specifically set forth, in order to bring the revenues of the state for the fiscal years for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

Jos. M. Dixon,
Governor.

HOUSE BILL NO. 396.

An Act Appropriating Money for the Payment of Deficiency Claims on Account of Feeding Drug Addicts Becoming Due During the Year Ending February, 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the purpose of paying deficiency claims on account of Feeding Drug Addicts, becoming due during the year ending February 28th, 1923, to-wit:

Bob Gordon, Sheriff Cascade County $1,073.00

Section 2. Such deficiency claims shall be allowed and paid upon the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HeinOnline -- 1923 569 1923

HOUSE BILL NO. 397.

An Act Appropriating Money for the Payment of Deficiency Claims on Account of Transporting Prisoners Becoming Due During the Year Ending February, 28th, 1923.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying deficiency claims on account of Transporting Prisoners, becoming due during the year ending February, 28th, 1923, to-wit,

Daniels County $638.00

Section 2. Such deficiency claims shall be allowed and paid upon the appropriation hereby made, upon the approval of said claims by the State Board of Examiners.

Section 3. This act shall be in full force, and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 400.

An Act Appropriating Money for the Operation and Maintenance of Certain of the State Institutions of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924.

For the payment of salaries and other expenses of the State University, Four Hundred Forty Thousand, One Hundred Dollars $440,100.00

For the payment of salaries and other expenses of the State College, Three Hundred Forty Thousand, One Hundred Sixty-five Dollars 340,165.00

For the payment of salaries and other expenses of the State School of Mines, Seventy-seven Thousand, Two Hundred Sixteen Dollars 77,216.00

For the payment of George W. Craven, Consulting Engineer, One Thousand Dollars 1,000.00

HeinOnline -- 1923 570 1923

For the payment of salaries and other expenses of the State Normal College, One Hundred Twenty-six Thousand, Five Hundred Seventy-eight Dollars 126,578.00

For the payment of salaries and other expenses of the Agricultural Experiment Station, One Hundred Nine Thousand, Nine Hundred Twelve Dollars and Fifty Cents 109,912.50

For the payment of salaries and other expenses of the Substations, Forty-six Thousand, Eight Hundred Dollars 46,800.00

For the payment of salaries and other expenses of the Agricultural Extension Service, One Hundred Twenty-four Thousand, Fifty-two Dollars and Forty Cents 124,052.40

For the payment of Railroad Fare Refund, Ten Thousand Dollars 10,000.00

Section 2. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any of the moneys in the State Treasury not otherwise appropriated. and out of any special fund herein designated, for the objects and purposes herein designated, for the year beginning July 1st, 1924 and ending June 30th, 1925.

For the payment of salaries and other expenses of the State University, Four Hundred Forty-four Thousand, Eight Hundred Fifty Dollars $444,850.00

For the payment of salaries and other expenses of the State College, Three Hundred Forty Thousand, Nine Hundred Twenty-nine Dollars 340,929.00

For the payment of salaries and other expenses of the State School of Mines, Seventy-eight Thousand Seventy Dollars 78,070.00

For the payment of George W. Craven, Consulting Engineer, One Thousand Dollars 1,000.00

For the payment of salaries and other expenses of the State Normal College, One Hundred Twenty-six Thousand, Five Hundred Seventy-eight Dollars 126,578.00

For the payment of salaries and other expenses of the Agricultural Experiment Station, One Hundred Nine Thousand, Nine Hundred Twelve Dollars, Fifty Cents 109,912.50

For the payment of salaries and other expenses of the Substations, Forty-six Thousand Eight Hundred Dollars 46,800.00

For the payment of salaries and other expenses of the Agricultural Extension Service, One Hundred Twenty-four Thousand, Fifty-two Dollars, Forty Cents 124,052.40

HeinOnline -- 1923 571 1923

For the payment of Railroad Fare Refund, Ten Thousand Dollars 10,000.00

Section 3. The amounts appropriated by the foregoing sections of this Act are hereby declared to be the maximum amounts which may be expended by each institution hereinabove specified for all purposes and from all funds during the fiscal years ending June 30th, 1924 and June 30th, 1925; it being the intent of this Act that the maximum amounts herein appropriated shall be the maximum for each institution from all funds and that only so much shall be taken from the General Funds as is necessary to make up the maximum appropriation after first exhausting the corresponding Revolving Appropriation accounts, Interest and Income Fund accounts and any or all other fund accounts from which payment may be made for the benefit of the institutions hereinabove specified; provided, however, that the provisions of this section shall not apply to the expenditures or the revolving funds of the dormitories and dining rooms; nor to other self-supporting activities; nor to moneys collected for student activities.

Section 4. This Act shall be in full force and effect from and after July 1st, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

STATE OF MONTANA, OFFICE OF THE GOVERNOR, Helena.

Hon. Chas. Stewart,
Secretary of State,
Helena, Montana.

My dear Sir:

I am transmitting herewith House Bill No. 400,

"An act appropriating money for the operation and maintenance of certain of the state institutions of the State of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill, contained in Section 1 thereof, as follows:

As to the item of said bill "For the payment of salaries and other expenses of the State University, $440,100.00," I withhold my approval from said sum of $22,005.00, or the equivalent of five per cent (5%), and approve the same only in the sum of $418,095.00.

As to the item of said bill "For the payment of salaries and other expenses of the State College, $340,165.00," I withhold my approval from said sum of $17,008.25, or the equivalent of five per cent (5%) and approve the same only in the sum of $323,156.75.

HeinOnline -- 1923 572 1923

As to the item of said bill "For the payment of salaries and other expenses of the State School of Mines, $77,216.00," I withhold my approval from said sum of $3860.80, or the equivalent of five per cent (5%) and approve the same only in the sum of $73,355.20.

As to the item of said bill "For the payment of George W. Craven, Consulting Engineer, $1,000.00," I withhold my approval from said sum of $100.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $900.00.

As to the item of said bill "For the payment of salaries and other expenses of the State Normal College, $126,578.00," I withhold my approval from said sum of $6,328.90, or the equivalent of five per cent (5%) and approve the same only in the sum of $120,249.10.

As to the item in said bill, "For the payment of salaries and expenses of the Agricultural Experiment Station, $109,912.50," I withhold my approval from said sum of $10,991.25, or the equivalent of ten per cent (10%) and approve the same only in the sum of $98,921.25.

As to the item in said bill, "For the payment of salaries and other expenses of the substations, $46,800.00," I withhold my approval from said sum of $4,680.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $42,120.00.

As to the item in said bill, "For the payment of salaries and expenses of the Agricultural Extension Service, $124,052.40," I withhold my approval from said sum of $12,405.24, or the equivalent of ten per cent (10%), and approve the same only in the sum of $111,647.16.

As to the item in said bill, "For the payment of railroad fare refund, $10,000.00," I withhold my approval from said sum of $1,000.00, or the equivalent of ten per cent (10%), and approve of the same only in the sum of $9,000.00.

From the items of appropriation set forth in Section 2 of said bill, I withhold my approval as follows:

As to the item in said bill, "For the payment of salaries and other expenses of the State University, $444,850.00," I withhold my approval from said sum of $22,242.50, or the equivalent of five per cent (5%), and approve the same only in the sum of $422,607.50.

As to the item in said bill, "For the payment of salaries and other expenses of the State College, $340,929.00," I withhold my approval from said sum of $17,046.45, or the equivalent of five per cent (5%) and approve the same only in the sum of $323,882.55.

As to the item in said bill, "For the payment of salaries and other expenses of the State School of Mines, $78,070.00," I withhold my approval from said sum of $3,903.50, or the equivalent of

HeinOnline -- 1923 573 1923

five per cent (5%), and approve the same only in the sum of $74,166.50.

As to the item in said bill, "For the payment of George W. Craven, consulting Engineer, $1,000.00," I withhold my approval from said sum of $100.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $900.00.

As to the item in said bill "For the payment of Salaries and other expenses of the State Normal College, $126,578.00," I withhold my approval from said sum of $6,328.90, or the equivalent of five per cent (5%), and approve the same only in the sum of $120,249.10.

As to the item in said bill, "For the payment of salaries and other expenses of the Agricultural Experiment Station, $109,912.50," I withhold my approval from said sum of $10,991.25, or the equivalent of ten per cent (10%), and approve the same only in the sum of $98,921.25.

As to the item of said bill "For the payment of salaries and other expenses of the Substations, $46,800.00," I withhold my approval from said sum of $4,680.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $42,120.00.

As to the item of said bill "For the payment of salaries and other expenses of the Agricultural Extension Service, $124,052.40," I withhold my approval from said sum of $12,405.24, or the equivalent of ten per cent (10%), and approve the same only in the sum of $111,647.16.

As to the item of said bill "For the payment of railroad fare refund, $10,000.00," I withhold my approval from said sum of $1,000.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $9,000.00.

I take this action in withholding approval of specific sums and percentages, as set forth above, as against the various items of appropriation, on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the State would exceed the entire revenue coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368.539.29, and that the general deficit for the fiscal year 1924-1925 will approximate a similar sum.

HeinOnline -- 1923 574 1923

I have therefore, withheld my approval of the above items of appropriation, in the amounts specifically set forth, in order to bring the revenues of the state for the fiscal year, for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

Jos. M. Dixon,
Governor.

HOUSE BILL NO. 401.

An Act Appropriating Money for the Operation and Maintenance of the Office of the State Fire Marshal to Be Paid From the State Fire Marshal's Fund for the Period Beginning July 1st, 1923 to June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924.

For the payment of salaries and other expenses of the office of the State Fire Marshal, to be paid from the State Fire Marshal's Fund, Ten Thousand Two Hundred Fifty Dollars $10,250.00

Section 2. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any of the moneys in the State Treasury not otherwise appropriated and out of any special fund herein designated for the objects and purposes herein designated, for the year beginning July 1st, 1924 and ending June 30th, 1925.

For the payment of salaries and other expenses of the office of the State Fire Marshal, to be paid from the State Fire Marshal's fund, Ten Thousand Two Hundred Fifty Dollars $10,250.00

Section 3. This Act shall be in full force and effect from and after July 1st, 1923.

Approved March 5, 1923.

HeinOnline -- 1923 575 1923

HOUSE BILL NO. 402.

An Act Appropriating Money for the Operation and Maintenance of Certain of the Boards, Commissions, and Departments of the State of Montana for the Period Beginning July 1st, 1923 and Ending June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof, as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the object and purposes hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924.

For the salaries and expenses of the office of the Attorney General, Twenty-nine Thousand, Six Hundred Thirty-five Dollars $29,635.00

For the salaries and expenses of the office of the Adjutant General, Twenty-five Thousand Dollars $25,000.00

For the salaries and expenses of the office of the Secretary of State, Twenty-five Thousand, Seven Hundred Ten Dollars $25,710.00

For the salaries and expenses of the administration of the Motor Vehicle Department payable from the Motor Vehicle Administrative Fund, Thirty Thousand, Two Hundred Ninety-five Dollars $30,295.00

For Election expenses and publishing Referendum Measures, Five Thousand Dollars ..... $ 5,000.00

For the salaries and expenses of the office of the State Auditor, Eighty-three Thousand, Six Hundred Dollars. $83,600.00

For the salaries and expenses of the office of the State Treasurer, Twenty Thousand, Four Hundred Thirty-seven Dollars $20,437.00

For publishing the State Treasurer's quarterly Report, Eight Thousand Dollars ..... $ 8,000.00

For the salaries and expenses of the office of the Railroad Commission, Sixty Thousand Dollars $60,000.00

For the salaries and expenses of the office of the Purchasing Agent, Sixteen Thousand Four Hundred Fifty Dollars $16,450.00

Section 2. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated and out of any special fund herein designated, for the objects and purposes

HeinOnline -- 1923 576 1923

hereinafter expressed for the year beginning July 1st 1924 and ending June 30th 1925.

For the salaries and other expenses of the office of the Attorney General, Thirty Thousand, Five Hundred Thirty-five Dollars $30,535.00

For the salaries and other expenses of the office of the Adjutant General, Twenty-five Thousand Dollars $25,000.00

For the salaries and other expenses of the office of the Secretary of State, Twenty-five Thousand Seven Hundred Ten Dollars $25,710.00

For the salaries and expenses of the Administration of the Motor Vehicle Department payable from the Motor Vehicle Administrative fund, Thirty Thousand Two Hundred Ninety Five Dollars $30,295.00

For the election expenses and publishing Referendum Measures, Forty Thousand Dollars $40,000.00

For the salaries and other expenses of the office of the State Auditor, Eighty-four Thousand, One Hundred Dollars $84,100.00

For the salaries and other expenses of the office of the State Treasurer, Twenty Thousand, Four Hundred Thirty-seven Dollars $20,437.00

For publishing the State Treasurer's quarterly report, Eight Thousand Dollars ..... $ 8,000.00

For the salaries and expenses of the office of the Railroad Commission, Sixty Thousand, Five Hundred Dollars $60,000.00

For the salaries and expenses of the office of the Purchasing Agent, Sixteen Thousand, Four Hundred Fifty Dollars $16,450.00

Section 3. This Act shall be in full force and effect from and after July 1st, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

STATE OF MONTANA, OFFICE OF THE GOVERNOR, Helena.

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:

I am transmitting herewith House Bill No. 402,

"An act appropriating money for the operation and maintenance of certain of the boards, commissions and departments of the State

HeinOnline -- 1923 577 1923

of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill contained in Section 1 thereof as follows:

As to the item in said bill "For the salaries and expenses of the office of the Attorney General, $29,635.00," I withhold my approval from said sum of $2,963.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $26,671.50.

As to the item in said bill "For the salaries and expenses of the office of the Adjutant General, $25,000.00," I withhold my approval from said sum of $5000.00, or the equivalent of twenty per cent (20%) and approve the same only in the sum of $20,000.00.

As to the item in said bill "For the salaries and expenses of the office of the Secretary of State, $25,710.00," I withhold my approval from said sum of $2,571.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $23,139.00.

As to the item in said bill "For the salaries and expenses of the administration of the Motor Vehicle Department, payable from the Motor Vehicle Administrative Fund, $30,295.00," I hereby approve the same in full without any deduction.

As to the item in said bill "For election expenses and publishing referendum measures, $5,000.00," I hereby disapprove the same in full for the reason that there can be no expenditures for election purposes during the fiscal year for which the appropriation is made.

As to the item in said bill "For the salaries and expenses of the office of the State Auditor, $83,600.00," I withhold my approval from said sum of $5,016.00 or the equivalent of six per cent (6%) and approve the same only in the sum of $78,584.00.

As to the item in said bill, "For the salaries and expenses of the office of the State Treasurer, $20,437.00," I withhold my approval from said sum of $613.00, or the equivalent of three per cent (3%) and approve the same only in the sum of $19,824.00.

As to the item in said bill "For publishing the State Treasurer's quarterly report, $8,000.00," I withhold my approval from said sum of $800.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $7,200.00.

As to the item in said bill "For the salaries and expenses of the office of the Railroad Commission, $60,000.00 I withhold my approval from said sum of $9,000.00, or the equivalent of fifteen per cent (15%), and approve the same only in the sum of $51,000.00.

As to the item in said bill, "For the salaries and expenses of the office of the Purchasing Agent, $16,450.00," I withhold my approval from said sum of $822.50, or the equivalent of five per cent (5%) and approve the same only in the sum of $15,627.50.

HeinOnline -- 1923 578 1923

From the items of appropriation set forth in Section 2 of said bill, I withhold my approval as follows:

As to the item in said bill, "For the salaries and other expenses of the office of the Attorney General, $30,535.00," I withhold my approval from said sum of $1,526.75, or the equivalent of five per cent (5%), and approve the same only in the sum of $29,008.25.

As to the item in said bill, "For the salaries and other expenses of the office of the Adjutant General, $25,000.00," I withhold my approval from said sum of $5,000.00, or the equivalent of twenty per cent (20%) and approve the same only in the sum of $20,000.00.

As to the item in said bill "For the salaries and other expenses of the office of the Secretary of State, $25,710.00, I withhold my approval from said sum of $2,571.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $23,139.00.

As to the item in said bill, "For the salaries and expenses of the administration of the Motor Vehicle Department payable from the Motor Vehicle Administrative fund, $30,295.00," I hereby approve the same in full without any deduction.

As to the item in said bill, "For the election expenses and publishing referendum measures, $40,000.00," I withhold by approval from said sum of $8,000.00, or the equivalent of twenty per cent (20%) and approve the same only in the sum of $32,000.00.

As to the item in said bill "For the salaries and other expenses of the office of the State Auditor, $84,100.00," I withhold my approval from said sum of $5,046.00, or the equivalent of six per cent (6%) and approve the same only in the sum of $79,054.00.

As to the item in said bill, "For the salaries and other expenses of the office of the State Treasurer, $20,437.00," I withhold my approval from said sum of $613.00, or the equivalent of three per cent (3%) and approve the same only in the sum of $19,824.00.

As to the item in said bill "For publishing the State Treasurer's quarterly report, $8,000.00," I withhold my approval from said sum of $800.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $7,200.00.

As to the item in said bill "For the salaries and expenses of the office of the Railroad Commission, $60,000.00," I withhold my approval from said sum of $9,000.00, or the equivalent of fifteen per cent (15%), and approve the same only in the sum of $51,000.00.

As to the item in said bill "For the salaries and expenses of the office of the Purchasing Agent, $16,450.00," I withhold my approval from said sum of $822.50, or the equivalent of five per cent (5%), and approve the same only in the sum of $15,627.50.

I take this action in withholding approval of specific sums and percentages, as set forth above, as against the various items of

HeinOnline -- 1923 579 1923

appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the State during any fiscal year shall exceed the total tax then provided by law."

and in view of the fact that on March 13, 1923, the State Auditor George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the General fund of the state would exceed the entire revenues coming to the general fund of the State for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore withheld my approval of the above items of appropriation in the amounts specifically set forth, in order to bring the revenues of the State for the fiscal year, for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

Jos. M. Dixon,
Governor.

HOUSE BILL NO. 403.

An Act Appropriating Money for the Operation and Maintenance of the State Board of Equalization for the Period Beginning February 3, 1923 and Ending June 30, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 2. That the following sum or so much thereof as may be necessary, be and the same is hereby appropriated, out of any moneys in the State Treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed for the term beginning February 3, 1923 and ending June 30, 1923.

For salaries and expenses of the State Board of Equalization $27,675.00

Section 2. That the following sum or so much thereof as may be necessary, be and the same is hereby appropriated, out of any moneys in the State Treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed for the term beginning July 1, 1923 and ending June 30, 1924.

HeinOnline -- 1923 580 1923

For salaries and expenses of the State Board of Equalization $65,900.00

Section 3. That the following sum or so much thereof as may be necessary, be and the same is hereby appropriated, out of any moneys in the State Treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed for the term beginning July 1, 1924 and ending June 30, 1925.

For salaries and expenses of the State Board of Equalization $65,900.00

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

STATE OF MONTANA, OFFICE OF THE GOVERNOR, Helena.

Jos. M. Dixon, Governor March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:

I am transmitting herewith House Bill No. 403,

"An act appropriating money for the operation and maintenance of the State Board of Equalization for the period beginning February 3, 1923, and ending June 30, 1925."

I hereby approve the appropriation in full as set forth in Section 1 of said Bill.

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from Section 2 thereof as follows:

As to the item in said bill "for salaries and expenses of the State Board of Equalization, $65,900.00," I withhold my approval from said sum of $6,590.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $59,310.00.

From the item of appropriation set forth in Section 3 of said bill, I withhold my approval as follows:

As to the item in said bill "for salaries and expenses of the State Board of Equalization, $65,900.00," I withhold my approval from said sum of $6,590.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $59,310.00.

I take this action in withholding approval of specific sums and percentages as set forth above as against the two items of appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provided:

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the

HeinOnline -- 1923 581 1923

state during any fiscal year shall exceed the total tax then provided by law."

and in view of the fact that on March 13, 1923, the State Auditor George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general fund deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above items of appropriation in the amounts above specifically set forth in order to bring the revenues of the state for the fiscal year, for which the appropriation above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

Jos. M. Dixon,
Governor.

HOUSE BILL NO. 404.

An Act Appropriating Money for the Operation and Maintenance of the Department of State Hail Insurance and for the Payment of Losses to Be Paid From the State Hail Insurance Fund for the Period Beginning July 1st, 1923 to July 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the object and purpose hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924:

For the payment of salaries and other expenses of the office of the State Board of Hail Insurance and for the payment of adjusters and their expenses and for the payment of interest on any registered warrants, to be paid from the Hail Insurance Fund and transferred to the Hail Insurance Administrative Fund as needed $16,000

For the payment of losses as adjusted and approved and for the payment of interest on registered warrants to be paid from the Hail Insurance Fund .....as may be needed.

Section 2. That the following sums or so much thereof as may

HeinOnline -- 1923 582 1923

be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the object and purpose hereinafter expressed, for the year beginning July 1st, 1924 and ending June 30th, 1925:

For the payment of salaries and other expenses of the office of the State Board of Hail Insurance and for the payment of adjusters and their expenses and for the payment of interest on any registered warrants, to be paid from the Hail Insurance Fund and transferred to the Hail Insurance Administrative Fund as needed $15,800

For the payment of losses as adjusted and approved and for the payment of interest on registered warrants to be paid from the Hail Insurance Fund ..... as may be needed.

Section 3. This act shall be in full force and effect from and after July 1st, 1923.

Approved March 14, 1923.

HOUSE BILL NO. 405.

An Act Appropriating Money for the Operation and Maintenance of Certain of the State Boards, Commissions and Departments of the State of Montana for the Period Beginning July 1st, 1923, and Ending June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of the revolving appropriations herein designated, for the year beginning July 1st, 1923, and ending June 30th, 1924:

For the payment of salaries and expenses of the Department of Agriculture, Labor & Industry, Forty-Two Thousand, Five Hundred and Ten Dollars $42,510.00

For the payment of other salaries and expenses of the Department of Agriculture, Labor & Industry, to be paid from the Department of Agriculture Revolving Appropriation Account, all sums paid into said Revolving Appropriation Account.

Section 2. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of the revolving appropriations herein designated, for the year beginning July 1st, 1924, and ending June 30th, 1925:

For the payment of salaries and expenses of the Department of Agriculture, Labor & Industry, Forty-Two Thousand, Five Hundred and Ten Dollars $42,510.00

HeinOnline -- 1923 583 1923

For the payment of other salaries and expenses of the Department of Agriculture, Labor & Industry, to be paid from the Department of Agriculture Revolving Appropriation Account, all sums paid into said Revolving Appropriation Account.

Provided that should this Act or any part thereof be attacked or its constitutionality questioned in any court proceedings, then and in that event it is hereby declared the intent of the Legislative Assembly to appropriate in each of the various items embraced in Section 2 hereof, the twelve (12) equal amounts for each year for two years beginning July 1st, 1923, and ending June 30th, 1925, and that any decision affecting the constitutionality of this Act shall affect only that portion of said appropriation items for the months of March, April, May and June for the year 1925, and shall not affect any other part or portion of said appropriation.

Section 3. This Act shall be in full force and effect from and after July 1st, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.
Dear Sir:—

I am transmitting herewith House Bill No. 405,

"An Act appropriating money for the operation and maintenance of certain of the state boards, commissions and departments of the State of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from Section 1 thereof as follows:

As to the item in said bill "For the payment of salaries and expenses of the Department of Agriculture, Labor & Industry, $42,510.00," I withhold my approval from said sum of $4,251.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $38,259.00.

From the item of appropriation set forth in Section 2 of said bill, I withhold my approval as follows:

As to the item in said bill "For the payment of salaries and expenses of the Department of Agriculture, Labor & Industry, $42,510.00," I withhold my approval from said sum of $4,251.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $38,259.00.

I take this action in withholding approval of specific sums and percentages as set forth above as against the two items of appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

HeinOnline -- 1923 584 1923

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general fund deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withhold my approval of the above various items of appropriation in the amounts above specifically set forth in order to bring the revenues of the state for the fiscal years for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I herewith approve the bill.

Yours very respectfully,

Jos. M. Dixon,
Governor.

HOUSE BILL NO. 406.

An Act Appropriating Money for the Operation and Maintenance of Certain of the State Departments of the State of Montana for the Period Beginning July 1st, 1923 to June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924.

For the payment of salaries and other expenses of the office of the State Engineer, Fourteen Thousand, One Hundred Forty-five Dollars $14,145.00

For the payment of salaries and other expenses of the State Capitol Building, Forty-five Thousand Dollars 45,000.00

For the expense of New Boilers for the State Capitol Building, Nine Thousand Dollars 9,000.00

HeinOnline -- 1923 585 1923

For the payment of salaries and other expenses of the G. A. R. Custodian, One Thousand, Two Hundred Dollars 1,200.00

For the payment of salaries and other expenses of the office of Bank Examiner, Fifty-three Thousand Four Hundred Twenty-five Dollars 53,425.00

For the payment of salaries and other expenses of the office of State Accountant, Four Thousand Two Hundred Dollars 4,200.00

For the payment of salaries and other expenses of the office of the State Budget, Eight Thousand Dollars 8,000.00

For the payment of salaries and other expenses of the office of the District Judges, One Hundred Sixty Thousand Dollars 160,000.00

For the payment of salaries of County Attorneys, Seventy Thousand Dollars 70,000.00

For the payment of expense of Transporting Prisoners, Ten Thousand Dollars 10,000.00

For the payment of expenses of the Board of Charities and Reforms, Five Hundred Dollars 500.00

Section 2. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated and out of any special fund herein designated for the objects and purposes hereinafter expressed for the year beginning July 1st, 1924 and ending June 30th, 1925.

For the payment of salaries and other expenses of the office of the State Engineer, Ten Thousand One Hundred Forty-five Dollars $10,145.00

For the payment of salaries and other expenses of the State Capitol Building, Forty-five Thousand Dollars 45,000.00

For the payment of salaries and other expenses of the G. A. R. Custodian, One Thousand Two Hundred Dollars 1,200.00

For the payment of salaries and other expenses of the Bank Examiner, Fifty-three Thousand Four Hundred Twenty-five Dollars 53,425.00

For the payment of the salaries and other expenses of the office of the State Accountant, Four Thousand Two Hundred Dollars 4,200.00

For the payment of the salaries and other expenses of the State Budget, Eight Thousand Dollars 8,000.00

For the payment of salaries and other expenses of the District Judges, One Hundred Sixty Thousand Dollars 160,000.00

HeinOnline -- 1923 586 1923

For the payment of expenses of Transporting Prisoners, Ten Thousand Dollars 10,000.00

For the payment of salaries of County Attorneys 70,000.00

For the payment of expenses of the Board of Charities and Reforms, Five Hundred Dollars 500.00

Section 3. This act shall be in full force and effect from and after July 1st, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:

I am transmitting herewith House Bill No. 406,

"An Act appropriating Money for the operation and maintenance of certain of the state departments of the State of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill, contained in Section 1 thereof, as follows:

As to the item in said bill "For the payment of salaries and other expenses of the office of the State Engineer, $14,145.00," I withhold my approval from said sum of $1,414.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $12,730.00.

As to the item in said bill "For the payment of salaries and other expenses of the State Capitol Building, $45,000.00," I withhold my approval from said sum of $1,350.00, or the equivalent of three per cent (3%), and approve the same only in the sum of $43,650.00.

As to the item in said bill "For the expense of new boilers for the State Capitol Building, $9,000.00," I withhold my approval from said sum of $900.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $8,100.00.

As to the item in said bill "For the payment of salaries and expenses of the G. A. R. Custodian, $1,200.00," I withhold my approval from said sum of $120.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $1,080.00.

As to the item in said bill "For the payment of salaries and expenses of the office of Bank Examiner, $53,425.00," I withhold my approval from said sum of $1,602.75, or the equivalent of three per cent (3%), and approve the same only in the sum of $51,822.50.

As to the item in said bill "For the payment of salaries and

HeinOnline -- 1923 587 1923

other expenses of the office of State Accountant, $4,200.00," I withhold my approval from said sum of $210.00, or the equivalent of five per cent (5%) and approve the same only in the sum of $3,990.00.

As to the item in said bill "For the payment of salaries and expenses of the office of the State Budget, $8,000.00," I withhold my approval from said sum of $800.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $7,200.00.

As to the item in said bill "For the payment of salaries and other expenses of the office of the District Judges, $160,000.00" I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of salaries of County Attorneys, $70,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of expenses of transporting prisoners, $10,000.00," I withhold my approval from said sum of $1000.00, or the equivalent of ten per cent (10%) and approve the same in the sum only of $9,000.00.

As to the item in said bill, "For the payment of expenses of the Board of Charities and Reforms, $500.00," I withhold my approval from said sum of $100.00, or the equivalent of twenty per cent (20%), and approve the same in the sum only of $400.00.

From the items of appropriation set forth in Section 2 of said bill, I withhold my approval as follows:

As to the item in said bill, "For the payment of salaries and other expenses of the office of the State Engineer, $10,145.00," I withhold my approval from said sum of $1,014.50, or the equivalent of ten per cent (10%), and approve the same in the sum only of $9,130.50.

As to the item in said bill, "for the payment of salaries and other expenses of the State Capitol Building, $45,000.00," I withhold my approval from said sum of $1,350.00, or the equivalent of three per cent (3%), and approve the same in the sum only of $43,650.00.

As to the item in said bill, "For the payment of salaries and expenses of the G. A. R. Custodian, $1,200.00," I withhold my approval from said sum of $120.00, or the equivalent of ten per cent (10%), and approve the same in the sum only of $1,080.00.

As to the item in said bill "For the payment of salaries and other expenses of the Bank Examiner, $53,425.00," I withhold my approval from said sum of $1,602.75, or the equivalent of three per cent (3%), and approve the same in the sum only of $51,822.50.

As to the item in said bill "For the payment of the salaries and other expenses of the Office of the State Accountant, $4,200.00," I withhold my approval from said sum of $210.00, or the equivalent

HeinOnline -- 1923 588 1923

of five per cent (5%), and approve the same in the sum only of $3,990.00.

As to the item in said bill "For the payment of salaries and other expenses of the State Budget, $8,000.00," I withhold my approval from said sum of $800.00, or the equivalent of ten per cent (10%), and approve the same in the sum only of $7,200.00.

As to the item in said bill "For the payment of salaries and other expenses of the District Judges, $160,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of expenses of transporting prisoners, $10,000.00," I withhold my approval from said sum of $1,000.00, or the equivalent of ten per cent (10%), and approve the same in the sum only of $9,000.00.

As to the item in said bill "For the payment of salaries of County Attorneys, $70,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of expenses of The Board of Charities and Reforms, $500.00," I withhold my approval from said sum of $100.00, or the equivalent of twenty per cent (20%), and approve the same in the sum only of $400.00.

I take this action in withholding approval of specific sums and percentages, as set forth above, as against the various items of appropriation, on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statements showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above items of appropriation, in the amounts specifically set forth, in order to bring the revenues of the state for the fiscal years, for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

(Signed) Jos. M. Dixon,
Governor.

HeinOnline -- 1923 589 1923

HOUSE BILL NO. 407.

An Act to Appropriate Money for the Operation and Maintenance of Certain of the State Boards and Commissions of the State of Montana for the Period Beginning July 1, 1923 to June 30, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following amounts or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1, 1923, and ending June 30, 1924.

For the payment of salaries and other expenses of the Livestock Sanitary Board, Sixty Four Thousand, Nine Hundred Thirty Two Dollars, ($64,932.00).

For the payment of salaries and other expenses of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Fund, as much as may be required, but not to exceed Twenty Five Thousand Dollars ($25,000.00).

For the payment of emergencies arising out of the operations of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Emergency Fund, when such emergency is declared to exist by the State Board of Examiners, as much as may be required, but not to exceed Twenty Five Thousand Dollars, ($25,000.00).

For the payment of the salary of one clerk to the Livestock Commission, to be paid from the Bounty Fund, Eighteen Hundred Dollars, ($1800.00).

For the payment of other salaries and expenses of the Livestock Commission, Twelve Thousand Dollars, ($12,000.00).

For the payment of other salaries and expenses of the Livestock Commission to be paid from the Livestock Commission Fund, Forty Five Thousand, Nine Hundred Ninety Five Dollars, ($45,995.00).

For the payment of claims against the Bounty Fund, to be paid from the Bounty Fund, as much as may be required.

For the payment of Estray claims, to be paid from the Estray Fund, as much as may be required.

Section 2. That the following amounts or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in State treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1, 1924, and ending June 30, 1925.

For the payment of salaries and other expenses of the Livestock Sanitary Board, Sixty Four Thousand, Nine Hundred Thirty Two Dollars, ($64,932.00).

HeinOnline -- 1923 590 1923

For the payment of salaries and other expenses of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Fund, as much as may be required, but not to exceed Twenty Five Thousand Dollars, ($25,000.00).

For the payment of emergencies arising out of the operation of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Emergency Fund, as much as may be required, but not to exceed Twenty Five Thousand Dollars, ($25,000.00).

For the payment of the salary of one clerk to the Livestock Commission, to be paid from the Bounty Fund, Eighteen Hundred Dollars, ($1800.00).

For the payment of other salaries and expenses of the Livestock Commission, Twelve Thousand Dollars, ($12,000.00).

For the payment of other salaries and expenses of the Livestock Commission, to be paid from the Livestock Commission Fund, Forty Five Thousand, Nine Hundred Ninety Five Dollars, ($45,995.00).

For the payment of claims against the Bounty Fund, to be paid from the Bounty Fund, as much as may be required.

For the payment of Estray Claims, to be paid from the Estray Fund, as much as may be required.

Section 3. The amounts appropriated by the foregoing sections of this act are hereby declared to be the maximum amounts which may be expended by each board and commission hereinabove specified, for all purposes and from all funds during the fiscal years ending June 30, 1924 and June 30, 1925; it being the intent of this act that the maximum amounts herein appropriated shall be the maximum for each board or commission from all funds and that only so much shall be taken from the general funds as is necessary to make up the maximum appropriation after first exhausting other fund accounts from which payment may be made for the benefit of the board and commission hereinabove specified.

Section 4. This act shall be in full force and effect from and after July 1, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:—

I am transmitting herewith House Bill No. 407,

"An Act to Appropriate money for the operation and Maintenance of Certain of the State Boards and commissions of the State

HeinOnline -- 1923 591 1923

of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill, contained in Section 1 thereof, as follows:

As to the item in said bill "For the payment of salaries and other expenses of the Livestock Sanitary Board, $64,932.00," I withhold my approval from said sum of $6,493.20, or the equivalent of ten per cent (10%), and approve the same only in the sum of $58,438.80.

As to the item in said bill "For the payment of salaries and other expenses of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Fund, as much as may be required, but not to exceed $25,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of emergencies arising out of the operations of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Emergency Fund, when such emergency is declared to exist by the State Board of Examiners, as much as may be required, but not to exceed $25,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of the salary of one clerk of the Livestock Commission, to be paid from the Bounty Fund, $1800.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of other salaries and expenses of the Livestock Commission, $12,000.00, I withhold my approval from said sum of $1,200.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $10,800.00.

As to the item in said bill "For the payment of other salaries and expenses of the Livestock Commission to be paid from the Livestock Commission Fund, $45,995.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of claims against the Bounty Fund, to be paid from the Bounty Fund, as much as may be required," I hereby approve the same in full without any deductions.

As to the item in said bill, "For the payment of estray claims, to be paid from the Estray Fund, as much as may be required," I hereby approve the same in full without any deductions.

From the items of appropriation set forth in Section 2 of said bill, I withhold my approval as follows:

As to the item in said bill "For the payment of salaries and other expenses of the Livestock Sanitary Board, $64,932.00," I withhold my approval from said sum of $6,493.20, or the equivalent

HeinOnline -- 1923 592 1923

of ten per cent (10%), and approve the same only in the sum of $58,438.80.

As to the item in said bill "For the payment of salaries and other expenses of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Fund, as much as may be required, but not to exceed $25,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of emergencies arising out of the operation of the Livestock Sanitary Board, to be paid from the Livestock Sanitary Board Emergency Fund, as much as may be required, but not to exceed $25,000.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of the salary of one clerk to the Livestock Commission to be paid from the Bounty Fund, $1800.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of other salaries and expenses of the Livestock Commission, $12,000.00," I withhold my approval from said sum of $1,200.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $10,-800.00.

As to the item in said bill "For the payment of other salaries and expenses of the Livestock Commission, to be paid from the Livestock Commission Fund, $45,995.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of claims against the Bounty Fund, to be paid from the Bounty Fund, as much as may be required, "I hereby approve the same in full without any deductions.

As to the item in said bill "For the payment of estray claims, to be paid from the Estray Fund, as much as may be required," I hereby approve the same in full without any deductions.

I take this action in withholding approval of specific sums and percentages, as set forth above, as against the various items of appropriation, on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative Assembly from the general fund of the state would exceed the entire revenues

HeinOnline -- 1923 593 1923

coming to the general fund of the State for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above items of appropriation, in the amounts specifically set forth, in order to bring the revenues of the state for the fiscal years, for which the appropriations above set forth have been made, within the revenues of the state for the corresponding fiscal periods.

With the exception of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

Jos. M. Dixon, Governor.

HOUSE BILL NO. 408.

An Act Appropriating Money for the Operation and Maintenance of Certain of the Boards, Commissions, and Departments of the State of Montana for the Period Beginning July 1st, 1923 and Ending June 30th, 1925.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof, as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1st, 1923 and ending June 30th, 1924.

For the salaries and expenses of the office of the Registrar of State Lands, Thirty-two Thousand Five Hundred Seventy-five Dollars $32,575.00

For the salaries and expenses of the office of the State Land Agent, Sixteen Thousand, Eight Hundred Dollars $16,800.00

For the salaries and expenses of the office of the State Forester $43,750.00

For the salaries and expenses of the office of the State Board of Health, Thirty-four Thousand Nine Hundred Eighty-five Dollars $34,985.00

For the salaries and expenses of the office of the Orthopedic Commission, Twenty-five Thousand Dollars $25,000.00

For the salaries and expenses of the office of the Bureau of Child and Animal Protection, Fifteen Thousand, Five Hundred Ninety-five Dollars $15,595.00

HeinOnline -- 1923 594 1923

For the salaries and expenses of the office of the Superintendent of Public Instruction, Thirty-one Thousand, Eight Hundred Sixty Dollars $31,860.00

For the salaries and expenses of the office of the Board of Education, One Thousand Dollars ..... $ 1,000.00

For the salaries and expenses of the office of Normal Training in High Schools, Eighteen Thousand Dollars .. $18,000.00

For the payment of salaries and other expenses of the Office of Vocational Education, Twenty Thousand Dollars $20,000.00

For the payment of salaries and other expenses of the office of the Text Book Commission, One Hundred Dollars 100.00

For the payment of salaries and other expenses of the Board of Entomology, Fifteen Thousand Five Hundred Fifty-five dollars 15,555.00

For the payment of salaries and other expenses of the office of the State Entomologist, Five Hundred Dollars 500.00

For the payment of salaries and other expenses of the office of the Consoliadted Boards, Four Thousand Five Hundred Twenty-five Dollars 4,525.00

For the salaries and expenses of the State Board of Health to match the Federal Appropriation under the Sheppard-Towner act, Eight Thousand Seven hundred one dollars, ninety-two cents 8,701.92

Section 2. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the State Treasury not otherwise appropriated and out of any special fund herein designated, for the objects and purposes hereinafter expressed for the year beginning July 1st 1924 and ending June 30th, 1925.

For the salaries and expenses of the office of the Registrar of State Land, Thirty-two Thousand Five Hundred Seventy-five Dollars $32,575.00

For the salaries and expenses of the office of the State Land Agent, Sixteen Thousand, Eight Hundred Dollars 16,800.00

For the salaries and expenses of the office of the State Forester 43,750.00

For the salaries and expenses of the office of the State Board of Health, Thirty-four Thousand Nine Hundred Eighty-five Dollars 34,985.00

For the salaries and expenses of the office of the Orthopedic Commission, Twenty-five Thousand Dollars 25,000.00

HeinOnline -- 1923 595 1923

For the salaries and expenses of the office of the Bureau of Child and Animal Protection, Fifteen Thousand Six Hundred Fifty Dollars 15,650.00

For the salaries and expenses of the office of the Superintendent of Public Instruction, Thirty Thousand, Thirty Dollars $30,030.00

For the salaries and expenses of the office of the Board of Education, One Thousand Dollars .....$ 1,000.00

For the salaries and expenses of the office of the Normal Training in High Schools, Eighteen Thousand Dollars ..$18,000.00

For the payment of salaries and other expenses of the office of Vocational Education, Twenty Thousand Dollars $20,000.00

For the payment of salaries and other expenses of the office of the Text Book Commission, One Thousand Dollars .....$ 1,000.00

For the payment of salaries and other expenses of the Board of Entomology, Fifteen Thousand, Eight Hundred and Eight Dollars $15,808.00

For the payment of salaries and other expenses of the office of the State Entomologist, Five Hundred Dollars..$ 500.00

For the payment of salaries and other expenses of the office of the Consolidated Boards, Four Thousand Five Hundred Twenty-five Dollars .....$ 4,525.00

For the salaries and expenses of the State Board of Health to match the Federal Appropriation under the Sheppard-Towner Act Eight Thousand seven hundred one dollars, ninety-two cents .....$ 8,701.92

Section 3. This act shall be in full force and effect from and after July 1st, 1923.

Approved subject to the limitation of appropriation items as specifically set forth in the accompanying letter of transmittal.

March 15, 1923.

Hon. Chas. T. Stewart,
Secretary of State,
Helena, Montana.

Dear Sir:—

I am transmitting herewith House Bill No. 408,

"An Act appropriating money for the operation and maintenance of certain of the boards, commissions and departments of the State of Montana for the period beginning July 1, 1923, and ending June 30, 1925."

HeinOnline -- 1923 596 1923

Under the provisions of Section 13 of Article VII of the Constitution, I withhold my approval from the various items of said appropriation bill contained in Section 1 thereof as follows:

"As to the item in said bill "For the salaries and expenses of the office of the Registrar of State Lands, $32,575," I withhold my approval from said sum of $3,257.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $29,317.50.

As to the item in said bill "For the salaries and expenses of the office of the State Land Agent, $16,800.00," I hereby approve the same in full without any deductions.

As to the item in said bill "For the salaries and expenses of the office of the State Forester, $43,750.00," I withhold my approval from said sum of $4,375.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $39,375.00.

As to the item in said bill "For the salaries and expenses of the office of the State Board of Health, $34,985.00," I withhold my approval from said sum of $3,498.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $31,486.50.

As to the item in said bill "For the salaries and expenses of the office of the Orthopedic Commission, $25,000.00," I withhold my approval from said sum of $12,500.00, or the equivalent of fifty per cent (50%), and approve the same only in the sum of $12,500.00.

As to the item in said bill "For the salaries and expenses of the office of the Bureau of Child and Animal Protection, $15,595.00," I hereby approve the same in full without any deduction.

As to the item in said bill "For the salaries and expenses of the office of the Superintendent of Public Instruction, $31,860.00," I withhold my approval from said sum of $3,186.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $28,674.00.

As to the item in said bill "For the salaries and expenses of the office of the Board of Education, $1,000.00," I withhold my approval from said sum of $50.00, or the equivalent of five per cent (5%), and approve the same only in the sum of $950.00.

As to the item in said bill "For the salaries and expenses of the office of Normal Training in High Schools, $18.000.00," I withhold my approval from said sum of $1,800.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $16,200.00.

As to the item in said bill "For the salaries and other expenses of the Office of Vocational Education, $20,000.00," I withhold my approval from said sum of $3,000.00, or the equivalent of fifteen per cent (15%), and approve the same only in the sum of $17.000.00.

As to the item in said bill "For the payment of salaries and other expenses of the office of the Text Book Commission, $100.00," I withhold my approval from said sum of $10.00, or the equivalent

HeinOnline -- 1923 597 1923

of ten per cent (10%), and approve the same only in the sum of $90.00.

As to the item in said bill "For the payment of salaries and other expenses of the Board of Entomology, $15,555.00," I withhold my approval from said sum of $1,555.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $13,999.50.

As to the item in said bill "For the payment of salaries and other expenses of the office of the State Entomologist, $500.00," I withhold my approval from said sum of $50.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $450.00.

As to the item in said bill "For the payment of salaries and other expenses of the office of the Consolidated Boards, $4,525.00," I withhold my approval from said sum of $452.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $4,072.50.

As to the item in said bill "For the salaries and expenses of the State Board of Health to match the federal appropriation under the Sheppard-Towner Act, $8,701.92," I hereby approve the same in full without any deduction.

From the items of appropriation set forth in Section 2 of said bill, I withhold my approval as follows:

As to the item in said bill "For the salaries and expenses of the office of the Registrar of State Lands, $32,575.00," I withhold my approval from said sum of $3,257.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $29,317.50.

As to the item in said bill "For the salaries and expenses of the office of the State Land Agent, $16,800.00," I hereby approve the same in full without any deductions.

As to the item in said bill, "For the salaries and expenses of the office of the State Forester, $43,750.00," I withhold my approval from said sum of $4,375.00, or the equivalent of ten per cent (10%) and approve the same only in the sum of $39,375.00.

As to the item in said bill, "For the salaries and expenses of the office of the State Board of Health, $34,985.00" I withhold my approval from said sum of $3,498.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $31,486.50.

As to the item in said bill, "For the salaries and expenses of the office of the Orthopedic Commission, $25,000.00," I withhold my approval from said sum of $12,500.00, or the equivalent of fifty per cent (50%), and approve the same only in the sum of $12,500.00.

As to the item in said bill, "For the salaries and expenses of the office of the Bureau of Child and Animal Protection, $15,650.00," I hereby approve the same in full without any deduction.

As to the item in said bill, "For the salaries and expenses of the office of the Superintendent of Public Instruction, $30,030.00," I

HeinOnline -- 1923 598 1923

withhold my approval from said sum of $3,003.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $27,027.00.

As to the item in said bill, "For the salaries and expenses of the Board of Education, $1,000.00, I withhold my approval from said sum of $50.00, or the equivalent of five per cent (5%) and approve the same only in the sum of $950.00.

As to the item in said bill, "For the salaries and expenses of the office of the Normal Training in High Schools, $18,000.00," I withhold my approval from said sum of $1,800.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $16,200.00.

As to the item in said bill, "For the salaries and other expenses of the office of Vocational Education, $20,000.00," I withhold my approval from said sum of $3,000.00, or the equivalent of fifteen per cent (15%), and approve the same only in the sum of $17,000.00.

As to the item in said bill, "For the payment of salaries and other expenses of the office of the Text Book Commission, $1,000.-00" I withhold my approval from said sum of $100.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $900.00.

As to the item in said bill, "For the payment of salaries and other expenses of the Board of Entomology, $15,808.00," I withhold my approval from said sum of $1,580.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $14,-228.00.

As to the item in the said bill, "For the payment of salaries and other expenses of the office of the State Entomologist, $500.00," I withhold my approval from said sum of $50.00, or the equivalent of ten per cent (10%), and approve the same only in the sum of $450.00.

As to the item in said bill, "For the payment of salaries and other expenses of the office of the Consolidated Boards, $4,525.00," I withhold my approval from said sum of $452.50, or the equivalent of ten per cent (10%), and approve the same only in the sum of $4,072.50.

As to the item in said bill "For the salaries and expenses of the State Board of Health to match the federal appropriation under the Sheppard-Towner Act, $8,701.92," I hereby approve the same in full without any deduction.

I take this action in withholding approval of specific sums and percentages, as set forth above, as against the various items of appropriation on account of the provisions of Section 12 of Article XII of the State Constitution, which provides:

HeinOnline -- 1923 599 1923

"No appropriation shall be made nor any expenditures authorized by the Legislative Assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided by law,"

and in view of the fact that on March 13, 1923, the State Auditor, George P. Porter, and the State Treasurer, O. H. Junod, submitted to me in writing their statement showing that the total amount of the appropriations made by the Eighteenth Legislative assembly from the general fund of the state would exceed the entire revenues coming to the general fund of the state for the fiscal year 1923-1924 in the sum of $368,539.29, and that the general fund deficit for the fiscal year 1924-1925 will approximate a similar sum.

I have, therefore, withheld my approval of the above items of appropriation in the amount specifically set forth in order to bring the revenues of the state for the fiscal years for which the appropriations above set forth have been made within the revenues of the state for the corresponding fiscal periods.

With the exceptions of deductions in appropriations above noted, I hereby approve the bill.

Yours very respectfully,

(Signed) Jos. M. Dixon,
Governor.

HOUSE BILL NO. 411.

An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of Certain of the State Boards, Institutions and Departments of the State of Montana for the Year Ending February 28, 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of fifty-eight dollars and forty-seven cents ($58.47) be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the purpose of paying claims for deficiencies arising out of the operation of the Horticultural Board for the year ending February 28, 1921.

Section 2. That the sum of forty-eight dollars and sixty-two cents ($48.62) be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the purpose of paying claims for deficiencies arising out of the operation of the Huntley Sub-Station for the year ending February 28, 1921.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HeinOnline -- 1923 600 1923

HOUSE BILL NO. 412.

An Act Appropriating Money for the Payment of Deficiency Claims Arising Out of the Operation of Certain of the State Institutions and Departments of the State of Montana for the Year Ending February 28, 1921 and for the Year Ending June 30, 1921.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of seven hundred fifty-nine dollars and two cents ($759.02) be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the purpose of paying claims for deficiencies arising out of the operation of the Montana State Prison for the year ending February 28, 1921.

Section 2. That the sum of six hundred four dollars and eighty-five cents ($604.85) be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the purpose of paying claims for deficiencies on account of Requisitions for the four months ending June 30, 1921.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1923.

HOUSE BILL NO. 413.

An Act to Appropriate Money for the Incidental Expenses of the Eighteenth Legislative Assembly of the State of Montana and for the Salaries of the Officers and Attaches of Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Ten Thousand ($10,000.00) Dollars or so much thereof as may be necessary, be, and the same is hereby appropriated, out of any money in the State Treasury, not otherwise appropriated, to pay the Incidental Expenses of the Eighteenth Legislative Assembly of the State of Montana.

Section 2. That the sum of Ten Thousand ($10,000.00) Dollars or so much thereof as may be necessary, be, and the same is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, to pay the Salaries of the Officers and Attaches of the Eighteenth Legislative Assembly of the State of Montana.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1st, 1923.

HeinOnline -- 1923 601 1923

HOUSE RESOLUTION NO. 3.

A Resolution Requesting the Appointment of Edward E. Morris as Official Caretaker or Superintendent at One of Our American National Cemeteries in Europe.

WHEREAS, there will be appointed by our Quarter-master General William H. Hart, Washington, D. C., of the United States Army, Official Caretakers or Superintendents for the American National Cemeteries in Europe; and

WHEREAS, Edward E. Morris has every qualification to become an Official Caretaker or Superintendent at one of the eight cemeteries in Europe, he being a Licensed Embalmer and Funeral Director of high standing; and

WHEREAS, the said Edward E. Morris served overseas in the American Expeditionary Forces of Europe and was assigned to the Registration of Graves Service, serving in such capacity in Europe as a Soldier and Civilian for about four years; and

WHEREAS, Montana placed twenty-five (25%) per cent more men in the service according to its population than any other state in the Union, and its casualties were thirty (30%) per cent more; and

WHEREAS, we the members of the Eighteenth Legislative Assembly of the State of Montana are advised that Edward E. Morris of Livingston, Montana, is the only candidate from the entire Northwest for one of these appointments; and

WHEREAS, the members of the Montana Legislature in meeting assembled are desirous of having a Western man appointed to care for the graves of our men who fought and died for their country, now resting in American National Cemeteries in Europe;

NOW THEREFORE BE IT RESOLVED, by the House of Representatives of the Eighteenth Legislative Assembly, respectfully requests the appointment of Edward E. Morris, as Official Caretaker or Superintendent at one of our American National Cemeteries in Europe; and

BE IT FURTHER RESOLVED, that a copy of these resolutions be sent to our Quarter-master General, William H. Hart, at Washington, D. C.

Approved Feb. 28, 1923.

HOUSE JOINT MEMORIAL NO. 4.

Memorial to the Congress of the United States Praying for an Appropriation to Provide for the Construction of Public Roads Leading Into and Through National Forests, Indian Reservations and Other Public Land Areas.

HeinOnline -- 1923 602 1923

To the Honorable Senate and House of Representatives in the Congress of the United States of America, Your Memorialists, the Members of the Eighteenth Legislative Assembly of the State of Montana, the Senate and House concurring Respectfully Represent.

WHEREAS, there are in the thirteen Public Land States of the Northwest 382,032,487 acres of unappropriated and unreserved public lands, Indian Reservations and National Forests Areas, that are non-taxable and that do not contribute to the building of public roads except the twenty-five (25) per cent of the gross proceeds of the forests and is only a negligible amount. The non-taxable areas of these States are as follows:

Arizona	48,692,722
California	38,173,917
Colorado	24,562,927
Idaho	27,366,215
Minnesota	1,855,548
Montana	30,829,638
Nevada	58,453,899
New Mexico	30,418,359
Oregon	27,384,757
South Dakota	4,386,100
Utah	39,207,579
Washington	15,357,519
Wyoming	34,343,307
	382,032,487 Acres

WHEREAS, Indian Reservations, Forest Reserves, and other Public Lands stretch across County, State and Interstate Highways becoming insurmountable barriers to highway improvement, community and state development, and

WHEREAS, in many Counties of the Public Land States from fifty (50) to seventy-five (75) per cent of their area is non assessable Public Land Area, affording no taxes for schools and roads, and

WHEREAS, the Public Land States owing to large area, small population, and small valuation have not been able to participate in the 50-50 provision of the Federal Highway Act, and

WHEREAS, under the provisions of Senate Bill No. 1072 there was enacted a law November 1921, providing for an appropriation of Seventy-five Million ($75,000,000) Dollars; Fifteen Million ($15,000,000) Dollars of which was to be applied on roads in National Forests and leading into National Forests, and

HeinOnline -- 1923 603 1923

WHEREAS, highway projects in the Public Land States initiated under this appropriation must halt unless another appropriation is made to effect their completion.

THEREFORE BE IT RESOLVED, that the Congress of the United States be memorialized to make an appropriation of Twenty Million ($20,000,000) Dollars for roads in and leading into National Forests, in and through Indian Reservations, and

BE IT FURTHER RESOLVED, that copies of this Memorial be transmitted by the Secretary of State, to the President, the Secretary of the Interior, the Forest Service Department of Agriculture. the Bureau of Public Roads, the United States Senators and Members of Congress, the Governors of the thirteen Public Land States.

Approved Feb. 13, 1923.

HOUSE JOINT MEMORIAL NO. 6.

Petition to Congress Enacting Such Laws and Measures as Will Provide for a 'Great Lakes-St. Lawrence Water Way Project.'

WHEREAS, the great resources of the State of Montana are to a large extent undeveloped: That said State is largely dependent upon transportation facilities for its development, as its natural resources, its mining, timber, oil and farming industries are as yet in their infancy; and

WHEREAS, in a large measure the price of the products of these industries is dependent upon foreign markets; and

WHEREAS, the present rates for transportion of the products of these industries are too high to be in just proportion to the price received for such products: And due to such transportation facilities, the production of these several industries have been curtailed; and

WHEREAS, a similar problem directly confronts each State in the so called North Western Group, and likewise indirectly affects the entire country; and

WHEREAS, the Great Lakes-St. Lawrence Water Way Project in its completion and operation, will furnish to the people as well as the industries of the State of Montana and to all States, in the so called North Western Group, a cheaper method of transportation of these products to terminal points and foreign markets.

THEREFORE BE IT RESOLVED, by the House of Representatives of the Eighteenth Legislative Assembly of the State of Montana, the Senate concurring herein, that we do hereby memorialize the Congress of the United States and respectfully urge that Congress take immediate action toward the passage of such a law

HeinOnline -- 1923 604 1923

or laws, which will make possible the early completion and effective operation of the Great Lakes-St. Lawrence Water Way Project.

BE IT FURTHER RESOLVED, That a copy of this memorial be forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States and to our Representatives in the United States Congress.

Approved February 24, 1923.

SENATE CONCURRENT RESOLUTION NO. 1.

WHEREAS, the Congress of the United States, by the enactment of Chapter 163 of the Acts of the 51st Congress, 2nd Session, approved February 13th, 1891, granted to the State of Montana one section of the lands embraced within the abandoned Fort Ellis Military reservation, for public purposes in the discretion of the State Legislature; provided, That, whenever the State shall cease to use said lands for public purposes, the same shall revert to the United States; and,

WHEREAS, The following tract was selected November 28th, 1891, and the selection approved by the Department of the Interior, April 26th, 1892, to wit:

The SE¼ of the SE¼ of Section 10, the N½ of Section 15, the SW¼ of Section 15, the N½ of the SE¼ of Section 15, and the SW¼ of the SE¼ of Section 15, all in Twp. 23., R 6 E of the Montana Meridian, and,

WHEREAS, The said land is situated in Gallatin County in convenient proximity to the Agricultural Experiment Station, and has been used for some years for experimental purposes in connection with said station; and

WHEREAS, The Legislature has never specifically designated any particular purpose to which said land should be devoted, the past use of said land for experimental purposes having depended wholly upon the appointment of the director of the experiment station by successive governors as custodian of said land, as authorized by Senate Concurrent Resolution No. 5, approved March 7th, 1891, and,

WHEREAS, There may be danger that the lack of such legislative action might eventually cause said land to revert to the United States;

NOW THEREFORE BE IT RESOLVED by the Senate, the House of Representatives concurring, that the Legislature, in the lawful exercise of its discretion, in accordance with the Act of

HeinOnline -- 1923 605 1923

Congress before mentioned, does hereby dedicate the before mentioned section of the said Fort Ellis Military reservation, to the Agricultural Experiment Station established by Section 891 of the Revised Codes of Montana, 1921, for use in carrying on experimental work in agriculture in accordance with the several legislative enactments providing for the establishment and control of said Agricultural Experiment Station.

Approved January 30, 1923.

SENATE SUBSTITUTE JOINT RESOLUTION NO. 2.

BY COMMITTEE ON RAILROADS

AS SUBSTITUTE FOR SENATE JOINT MEMORIAL NO. 2.

WHEREAS, the farmers of Montana and the Northwest suffered serious loss of crops by reason of the widespread drouth that prevailed during the years of high prices and business inflation, and as a result were not prepared to withstand the deflation which followed by calling on a reserve of accumulated profits such as was available to other lines of industry, and,

WHEREAS, by reason of long distances to market making freight charges high, and the low prices for what the farmer sells, and the high prices for what he buys, the farmers of Montana and the Northwest, having for the first time in five years obtained a substantial yield, are unable to secure the cost of production for their crops, and,

WHEREAS, the railroads serving Montana, by reason of a shortage of cars, have been unable to receive and transport to market the products of the farm and ranches, thus causing great inconvenience and loss, not only to the farmers and stock growers, but to the business and banking interests of the state, as well, and,

WHEREAS, the responsibility for this deplorable condition is in dispute, having been repudiated by the western roads laying the blame on their eastern connections, who in turn deny the responsibility, therefore,

BE IT RESOLVED, by the eighteenth Legislative Assembly of the State of Montana, the Senate and the House concurring, that we do hereby petition and earnestly pray the Interstate Commerce Commission of the United States to take such action regarding regulating the interchange of cars, or such other action as may be necessary to prevent a recurrence of these conditions.

And we further petition and pray that for the reasons heretofore set out, to-wit, the inability of the farmers in the Northwest to secure the cost of production for their wheat and other products,

HeinOnline -- 1923 606 1923

the Honorable, the Congress of the United States enact such legislation as may be necessary to stabilize the price of farm products by fixing a minimum price for wheat, thus placing the business of farming on an equal footing with other and lesser industries of the country.

BE IT FURTHER RESOLVED that a copy of this memorial be forwarded by the Secretary of State of Montana to the Senators and Representatives in Congress of the State of Montana, with the request that they use every effort within their power to bring relief to the farmers of the Northwest by carrying into effect the suggestions hereinbefore set out, and that they deliver to the Secretary of the Interstate Commerce Commission, a copy of this Resolution.

Approved Feb. 27, 1923.

SENATE JOINT RESOLUTION NO. 3.

WHEREAS, the production of silver affords employment to many thousands of persons directly, and indirectly to thousands of others in allied activities, and

WHEREAS, an insufficient price for silver tends to increase the cost of production of lead and zinc, which are associated with silver in ores in many instances, and

WHEREAS, an increase in the price of lead and zinc tends to increase the cost of materials employed in construction work, such as paints, brass, sheathing, pipe, alloys and various compounds, and thereby to discourage building and construction, and

WHEREAS, it is highly important that all building and construction activities be encouraged, and

WHEREAS, the prospective early expiration of the Pittman Act, which fixed a price that enabled silver to be mined profitably, is liable to cause curtailment of mining operations generally and complete suspension in many instances, thereby tending to lower wages and loss of employment for those engaged in mining and allied industries and consequent adverse effect on building and construction throughout the country unless action to prevent such situation is taken,

THEREFORE, BE IT RESOLVED, that we respectfully ask the Congress of the United States to lend all possible encouragement, through legislation and otherwise if necessary, to the efforts of those engaged in mining who seek to maintain an adequate price for silver, and

HeinOnline -- 1923 607 1923

BE IT FURTHER, RESOLVED, that all labor organizations of the country, and all others interested in the general welfare, be invited to join with us in this movement.

Approved Feb. 27, 1923.

SENATE JOINT MEMORIAL NO. 1.

Memorial to the Congress of the United States, to Enact Such Legislation as May Be Necessary to Issue Patents to Farm Units on Federal Reclamation Projects in Order That Such Farm Units May Become Taxable.

To the Honorable Senate and House of Representatives in the Congress of the United States of America:

Your Memorialists, the members of the Eighteenth Legislative Assembly of the State of Montana, the Senate and House Concurring, Respectfully Represent:

WHEREAS, during the past few years many Federal Reclamation Projects have been established in the State of Montana, and the Farm Units thereof sold to settlers, and

WHEREAS, such settlers have established schools and road districts on such Projects, which depend for maintenance and support upon taxes levied for that purpose upon the property of such settlers, including the equity of such settlers in the said Farm Units, and

WHEREAS, by a recent decision of the Supreme Court of the United States (Irvin vs Webb, U. S. Sup Ct. 66L. ed. 333) the said Farm Units have been held to be non-taxable until patents therefor have been issued to the purchaser, and

WHEREAS, under the existing laws of the United States, such patents may not be issued until the final payment is made for such Farm Units, and

WHEREAS, the money derived from taxation of the personal property alone on such Projects is not sufficient to maintain the schools and roads established on said Projects, therefore,

BE IT RESOLVED, that it is the sense of this Legislative Assembly, that the Congress of the United States should enact such legislation as may be necessary to authorize the issuance of Patents for the Farm Units on Federal Reclamation Projects, subject to the final payment for the same, in order that taxes may be levied thereon; and

HeinOnline -- 1923 608 1923

BE IT FURTHER RESOLVED, that a copy of this Memorial be forwarded to the Senate and House of Representatives of the United States and to each of the Senators and Representatives from Montana in Congress.

Approved February 2nd, 1923.

SENATE JOINT MEMORIAL NO. 5.

Memorial to the Senate of the United States of America in Congress Assembled, to Adopt Resolution Passed by the House of Representatives, Making Income From Securities Hereafter Issued by or Under the Authority of the State, Taxable, and Giving State Power to Tax Federal Securities.

To the Honorable Senate of the United States of America:

Your Memorialists, the members of the Eighteenth Legislative Assembly of the State of Montana, the Senate and House concurring, respectfully represent: that

WHEREAS, the House of Representatives in Congress Assembled have recently passed a resolution, which if also passed by the Senate of the United States, will make securities hereafter issued by or under the authority of the state, taxable, and likewise, give the states power to tax federal securities at the same rate their own securities are taxed; and

WHEREAS, the purpose of such resolution is to prevent the further issuance of tax exempt securities; and

WHEREAS, it is apparent that people with capital to invest have been, are and will continue so long as tax-free securities are issued to invest their wealth in such securities in order to avoid paying their just share of taxation and contributing their just proportion of money to the administration of the government, all of which likewise tends to keep out of the channels of trade much of the wealth of our country and thereby retard the advancement and development of her legitimate business industries, therefore,

BE IT RESOLVED, by the Legislative Assembly that it unreservedly favors the adoption by the Senate of the United States of Congress Assembled; and

BE IT FURTHER RESOLVED, that a copy of this Memorial be forwarded to the Senate of the United States and to each of the Senators from Montana in Congress.

Approved Feb. 27. 1923.

HeinOnline -- 1923 609 1923

SENATE JOINT MEMORIAL NO. 6.

Memorial to the Congress of the United States to Enact Such Legislation Providing for the Forty Year Plan, to Meet Construction, Operation and Maintenance Charges of Government Reclamation Projects.

To the Honorable Senate and House of Representatives in the Congress of the United States of America.

Your Memorialists, the members of the Eighteenth Legislative Assembly of the State of Montana, the Senate and House concurring, respectfully represent;

WHEREAS, the large majority of the settlers on government reclamation projects are now and in a large number of cases for several years past, have been unable to meet the construction, operation and maintenance charges now accrued and due; and

WHEREAS, these settlers will be unable to meet such charges in the future, together with those accruing under the present plan of payments on the various projects; and

WHEREAS, a policy must immediately be adopted not only to enable these settlers to continue their farm operations, but at the same time to finance further operations of the projects of the government and to protect the present investment of the government as represented in the project works;

BE IT RESOLVED: That it is the sense of this Eighteenth Legislative Assembly of the State of Montana that the Congress of the United States should enact such legislation providing for the forty year plan of payment to meet construction, operation and maintenance charges of government reclamation projects as covered by the Borah Bill now pending in Congress; and

BE IT FURTHER RESOLVED: That a copy of this memorial be forwarded to the Senate and House of Representatives of the United States and to each of the Senators and Representatives from Montana in Congress.

Approved Feb. 27, 1923.

HeinOnline -- 1923 610 1923

CHANGES OF NAMES REPORTED IN 1922 AND 1923.

Date of Judgment	Original Name	Name Decreed	Residence
Feb. 23, 1922	Peter Worms	Peter J. Troyer	Gilman, Mont.
Feb. 16, 1923	John Yuhas	John Uhas	Miles City, Mont.
June 2, 1922	Albert J. Babjnsky	Albert J. Bobiney	Plevna, Mont.
March 5, 1921	August D. F. Buchholz	Montana August	Augusta, Mont.
Nov. 23, 1921	Peter Magnus Mahnusen	Pete Magnus Pedersen	Libby, Mont.
March 10, 1922	Edward Volen Cabbage	Edward Volen Bethel	Saco, Mont.
Jan. 23, 1922	Frederick Herman Miller	Frank Eugene Miller	Livingston, Mont.
June 12, 1922	Myrtle Elithe Little	Myrtle Elithe McDonald	Livingston, Mont.
June 12, 1922	William Gilman Little	Gilman McDonald	Livingston, Mont.
Sept. 11, 1922	Mrs. Margaret Lamp	Miss Margaret Crest	Big Timber, Mont.
Nov. 3, 1922	Mrs. Pearl Lane	Miss Pearl Mallery	Livingston, Mont.
Nov. 16, 1922	Shirley Nelson	Geraldine Barry	Livingston, Mont.
Nov. 21, 1922	William Bement	Thomas Barry	Livingston, Mont.
Sept. 25, 1922	Warren Boyd Bonnell	Warren Boyd Shorthill	Livingston, Mont.
Dec. 1, 1922	Grace Hodler	Grace Finley	Livingston, Mont.
Sept. 23, 1921	Frank Poliowitz, alias Politowicz, alias Politowitz	Frank Carey	Forsyth, Mont.

HeinOnline -- 1923 611 1923

APPENDIX

The following laws were passed by vote of the people at the General Election held November 7, 1922:

(Constitutional Amendments)

CHAPTER 113.
Laws of 1921.

"An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to Article XVI of the Constitution of the State of Montana by Adding thereto a section to be Known as Section 7, Authorizing the Legislative Assembly by a General or Special Law to Provide a Form and Plan of Government for Counties or for Cities and Counties Under Such Form or Plan as the Legislative Assembly May Prescribe."

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Article XVI of the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the general election to be held in November, 1922.

Section 2. That Article XVI of the Constitution of the State of Montana be and the same is hereby amended by adding thereto a section to be known as Section 7 and to read as follows:

"Section 7. The Legislative Assembly may, by general or special law, provide any plan, kind, manner or form of municipal government for counties, or counties and cities and towns, or cities and towns, and whenever deemed necessary or advisable, may abolish city or town government and unite, consolidate or merge cities and towns and county under one municipal government, and any limitations in this constitution notwithstanding, may designate the name, fix and prescribe the number, designation, terms, qualifications, method of appointment, election or removal of the officers thereof, define their duties and fix penalties for the violation thereof, and fix and define boundaries of the territory so governed, and may provide for the discontinuance of such form of government when deemed advisable; provided, however, that no form of government permitted in this section shall be adopted or discontinued until after it is submitted to the qualified electors in the territory affected and by them approved."

Section 3. That separate official ballots be provided at the general election to be held in November, 1922, which shall have printed thereon the words: "For the amendment to the Constitution relating

HeinOnline -- 1923 612 1923

to the form of county governments or county and city governments," and "Against the amendment to the Constitution relating to the form of county governments or county and city governments," and each elector shall designate his preference by making an "X" before the proposition for which such elector desires to vote.

Section 4. The votes cast for and against the amendment above proposed shall be canvassed and determined as provided by the general election laws of the State of Montana.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This Act shall take effect upon its passage and approval.

Approved February 26, 1921.

The above Chapter was ratified by the people at the General Election held November 7, 1922, and became a law by virtue of the Governors proclamation on December 14, 1922.

The vote:

FOR	67,249
AGAINST	50,178

CHAPTER 11.

Laws of 1921, Extraordinary Session.

"An Act for the Submission to the Qualified Electors of the State of Montana of an Amendment to Section Fifteen of Article Twelve of the Constitution of the State of Montana, as Amended; Creating County Board of Equalization and a State Board of Equalization, and Defining and Prescribing their Powers and Duties."

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section Fifteen of Article Twelve of the Constitution of the State of Montana, as amended, be amended as hereinafter provided, and that the question of said amendment be submitted to the qualified electors of the State of Montana at the next general election.

HeinOnline -- 1923 613 1923

Section 2. That Section Fifteen of Article XII of the Constitution, as amended, be, and the same is hereby amended to read as follows:

"Section 15. The board of county commissioners of each county shall constitute the County Board of Equalization. The duties of such board shall be to adjust and equalize the valuation of taxable property within their respective counties, and all such adjustments and equalizations may be supervised, reviewed, changed, increased or decreased by the State Board of Equalization. The State Board of Equalization shall be composed of three members who shall be appointed by the Governor, by and with the advice and consent of the Senate. A majority of the members of the State Board of Equalization shall constitute a quorum. The term of office of one of the members first appointed shall end on March 1st, 1925, of another first appointed on March 1st, 1927, and of the third first appointed on March 1st, 1929. Each succeeding member shall hold his office for the term of six years, and until his successors shall have been appointed and qualified. In case of a vacancy the person appointed to fill such vacancy shall hold office for the unexpired term in which the vacancy occurs. The qualifications and salaries of the members of the State Board of Equalization shall be as provided by law, provided, however, that such members shall be so selected that the board will not be composed of more than two persons who are affiliated with the same political party or organization; provided, further, that each member shall devote his entire time to the duties of the office and shall not hold any position of trust or profit, or engage in any occupation or business interfering or inconsistent with his duties as a member of such board, or serve on or under any committee of any political party or organization, or take part, either directly or indirectly, in any political campaign in the interest of any political party or organization or candidate for office. The State Board of Equalization shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of the county assessors and county boards of equalization; change, increase, or decrease valuations made by county assessors or equalized by county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties, between the different classes of property, and between individual taxpayers. Said State Board of Equalization shall also have such other powers, and perform such other duties relating to taxation as may be prescribed by law."

HeinOnline -- 1923 614 1923

Section 3. Separate official ballots shall be provided at the general election to be held in November, 1922, which shall have printed thereon all of Section 15 of Article XII of the Constitution of the State of Montana, as amended by this act, and below the same shall be printed the words:

☐ For the above written amendment to the Constitution.

☐ Against the above written amendment to the Constitution.

Each elector shall designate his preference by marking an X in the square before the proposition for which such elector desires to vote.

Section 4. The votes cast for and against the amendment above proposed shall be canvassed, determined and declared as provided by the general election laws of the State of Montana.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall take effect and be in full force from and after its approval.

Approved March 22, 1921.

The above Chapter was ratified by the people at the General Election held November 7, 1922, and became a law by virtue of the Governors Proclamation on December 14, 1922.

The vote:

For	65,279
Against	52,536

REFERENDUM MEASURE NO. 25

CHAPTER 162.

Laws of 1921.

An Act Providing for the payment of Equalized Compensation to Each Soldier Who served in the Military or Naval Forces of the United States During the War Between the United States and the German Empire and Its Allies Between the Sixth Day of April, Nineteen Hundred and Seventeen and the Eleventh Day of November, Nineteen Hundred and Eighteen; Authorizing the State of Montana to Become Indebted in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) in Excess of the Constitutional Limit Over and Above Any Bonded Indebtedness Heretofore Incurred or Created and for Which Said State is Now

HeinOnline -- 1923 615 1923

Obligated; Providing for the Issuance and Sale of Bonds of and in the Name of the State of Montana in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) to Acquire Funds for the Payment of Said Equalized Compensation, Prescribing the Form of Such Bond; Providing for the Creation of a Fund to Pay the Principal and Interest of Said Bonds by Levying a sufficient Annual Tax to Pay the Principal and Interest Accruing Thereon; Making an Appropriation; Providing Penalties; Providing for the Submission to the Qualified Electors of the State of Montana at the next General or Special Election the Question of the Issuance of Such Bonds and Describing the Form of the Ballots to Be Used and the Duties of the State Board of Examiners Relative to the Issuance of Such Bonds and the Duties of the Secretary of the State of Montana Relative to the Submission of Said Question to the Qualified Electors of Said State.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In order to promote the spirit of patriotism and loyalty, in testimony of the gratitude of the State of Montana, and in recognition of the splendid services of Montana men in the war between the United States and the German Empire and its allies. there shall be paid to each person who was regularly called, enlisted, drafted, inducted or commissioned and who served on active duty in the Army, Navy or Marine Corps of the United States between the sixth day of April, Nineteen Hundred and Seventeen and the Eleventh Day of November, Nineteen Hundred Eighteen for a period longer than two months; and to each person who, being a citizen of the United States at the time of entry therein, served on active duty in the naval, military or air forces of any of the governments associated with the United States during the war with the central allied powers between the sixth day of April, Nineteen Hundred Seventeen and the eleventh day of November, Nineteen Hundred Eighteen, for a period longer than two months; and at the time of his call, enlistment, induction, commission or service, was a bona fide resident of the State of Montana, the sum of Ten Dollars ($10.00) for each month or major fraction thereof that such person was in active service, not to exceed however, a total sum of Two Hundred Dollars ($200.00); provided, that persons who have received extra compensation from any other state, or nation other than the United States for such active service shall not be entitled to compensation under this Act unless the amount of compensation so received is less than they would be entitled to hereunder, in which event they shall receive the difference between the compensation allowable under this Act and the extra compensation already received from such other state or nation, provided, further,

HeinOnline -- 1923 616 1923

that persons who have received greater compensation than the regular pay of the Army, Navy, or Marine Corps and commutation for quarters and subsistence, shall not be entitled to receive compensation under this Act unless the amount of the extra compensation so received is less than they would be entitled to hereunder, in which event they shall receive the difference between the compensation allowable under this Act and such extra compensation. In case of the death of any such person while in such service an equal amount shall be paid to his surviving widow, if not remarried the time compensation is requested, or in case he left no widow and left children, then to his surviving children, or in the event he left no widow or children, then to his surviving parent or parents if actually dependent upon such deceased person for support. Persons of the female sex, or their surviving children or parents, who are in all other respects within the terms of this Act, shall be entitled to compensation thereunder.

Section 2. The word "person" as used in Section 1 of this Act, shall not include persons who, during the period of their service, refused on conscientious, political or other grounds to subject themselves to full military discipline or unqualified service, or who while in such service, were separated therefrom under circumstances amounting to a dishonorable discharge and who have not subsequently been officially restored to an honorable status, and such person shall not be entitled to the benefits of this Act.

Section 3. All disbursements required by this Act for compensation shall be made upon the presentation of a certificate upon a form to be prescribed by the State Auditor, which certificate shall be duly verified by the claimant under oath and shall set forth the name, residence at the time of entry into the service, date of enlistment, induction or commission, date of discharge or release from active service, if the claimant is not on active duty, a statement that the claimant during the period for which compensation is allowed did not refuse to subject himself to full military discipline and unqualified service and that he has not been separated from the service under circumstances amounting to a dishonorable discharge, and such further information as the State Auditor may require. Such certificate shall be presented to the State Auditor or his representative together with an honorable discharge or release from active service, or in case of its loss a properly authenticated record of service, or in the event that claimant is still in the service a proper authenticated record of all active service performed by claimant, or if the same be presented by the widow, child or parents of a deceased veteran, then with the proper evidence of death. together with a properly authenticated record of service, and the State Auditor shall endorse upon such discharge, release or record of active

HeinOnline -- 1923 617 1923

service was made the basis of the application, and shall return such discharge or release or record of active service to the claimant and shall forthwith draw his warrant in the name of the claimant upon the Veteran's Compensation Fund for an amount equal to Ten Dollars ($10.00) for each and every month of active service, or major fraction thereof, subsequent to the sixth day of April, Nineteen Hundred Seventeen, not exceeding however a total of Two Hundred Dollars ($200.00), and the State Treasurer shall pay such warrants from the Veterans' Compensation Fund.

In cases where application for compensation is made by the widow, children or parents of a deceased veteran, such person shall furnish the same information as though the application were made by the deceased veteran, and the State Auditor shall prepare an appropriate form of certificate to cover such cases. Compensation allowed to the children of deceased veterans shall be paid to the guardians of such children, which guardian if appointed by the courts of this state, shall serve without compensation and in the discretion of the court without bond, and it shall be the duty of every county attorney in this state to appear in the courts or render any other necessary legal assistance in behalf of such children in so far as the provisions of this Act are concerned, without compensation and no public officer shall collect any fees in any proceeding brought in behalf of such children to secure compensation under this Act.

The State Auditor is empowered to make such additional reasonable requirements from applicants as are necessary to prevent fraud or the payment of compensation to persons not entitled thereto.

Section 4. The State Auditor shall furnish free of charge, upon application therefor, the necessary form of certificate to all persons entitled thereto, and may establish at different points within the State of Montana offices at which there shall be kept on file for the use of persons covered by this Act, a sufficient number of forms of certificate so that there may be no delay in the payment of this compensation. The State Auditor may authorize the county auditor or county clerk, or both, of any county of the state to act for him in receiving applications under the provisions of this Act, and shall furnish such person with the proper certificates to enable him to accept such application. The State Auditor is hereby authorized and directed to procure such printing and office supplies and equipment, and to employ such persons as may be necessary in order to properly carry out the provisions of this Act, and all expenses incurred by him in the administration of this Act shall be paid by warrants drawn upon the Veterans' Compensation Fund.

The Adjutant General shall advise with and assist the State Auditor in the performance of the duties of the Auditor under this Act.

HeinOnline -- 1923 618 1923

Section 5. For the purpose of providing means for the payment of compensation hereunder and for paying the expenses of administration, the State Board of Examiners of the State of Montana is hereby authorized, empowered and directed to issue, from time to time as may be required for the purpose of this Act, bonds of, and in the name of, the State of Montana, to and in the amount of the sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) in excess of the constitutional limitation of indebtedness of the State of Montana, and over and above any bonded indebtedness of said state heretofore created or incurred for which said state is now obligated. The bonds provided for in this Act shall be issued in denomination of One Thousand Dollars ($1,000.00) each, and shall bear interest at a rate not exceeding five and one-half per cent (5½%) per annum, payable semi-annually on the first days of January and July of each year at the office of the State Treasurer of the State of Montana, or at some bank in a city outside of the State of Montana designated by the State Treasurer; such bonds shall be dated on the first day of January or the first day of July and shall become due and payable twenty (20) years from their date and be redeemable at the option of the State Board of Examiners at any time after ten (10) years from their date at any interest paying period. The bonds herein referred to shall be in such form as may be prescribed by the Attorney General and approved by the State Board of Examiners, and shall be signed by the members of said board and issued under the great seal of the State of Montana, and shall be registered in the office of the State Treasurer. Said bonds shall have interest coupons attached thereto covering the interest due semi-annually, which coupons shall be executed with facsimile signatures of all the members of the State Board of Examiners, and the signing of said coupons with said facsimile signature shall be recognized as sufficient execution of said coupons on behalf of the State of Montana.

The bonds provided for in this Act shall be disposed of by the State Board of Examiners in such manner as they shall deem for the best interests of the State in carrying out the provisions of this Act; provided, that no bond shall be disposed of for less than its par value.

Bonds issued under the provisions of this Act shall be a legal investment for any of the funds of the State.

Section 6. The money arising from the sale of each issue of bonds shall be deposited in the State Treasury to the credit of a special fund to be known as the "Veterans' Compensation Fund" which shall be used for the payment of the compensation provided in this Act and for paying the expenses of administration thereof. For the purpose of carrying out the provisions of this Act there is here-

HeinOnline -- 1923 619 1923

by appropriated from the Veterans' Compensation Fund the sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) or so much thereof as may be necessary.

Section 7. Authority is hereby given to any person who so desires to assign to the Veterans' Welfare Fund the compensation to which he is entitled under this Act and the Veterans' Welfare Commission of the State of Montana is hereby authorized to expend any such money so received for the amelioration of the conditions of residents of this state who are suffering from physical disability incurred in the military or naval services of the United States at any time between the sixth day of April, Nineteen Hundred Seventeen, and the date when they were honorably separated or discharged from the service.

Section 8. All payments or allowances made under this Act shall be exempt from all taxation and from levy and sale on execution.

Section 9. That there shall be levied annually a tax not exceeding one-half mill on the dollar on all property in the State of Montana, subject to taxation, which said tax when collected by the County Treasurers of the counties of the State of Montana shall be by them accounted for and paid into the State Treasury of the State of Montana and to be by the State Treasurer placed in and credited to a fund to be known as the "Veterans' Compensation Bond Retirement Fund" and which fund shall be used exclusively for the payment of the principal and interest accruing on said bonds.

Section 10. No charge made by any agent, notary public or attorney for a service in connection with obtaining the allowance as provided for by this Act shall be recognized by the state and any person who for a consideration discounts or attempts to discount, or for a consideration advances money upon any certificate or certificates issued pursuant to the terms of this Act, shall be guilty of a gross misdemeanor.

Section 11. Any person, who with intent to defraud, subscribes to any false oath or makes any false representation, either in the execution of the certificates provided for by this Act or who with intent to defraud, presents to the State Auditor, or to any other officer of the state, any certificate for the purpose of obtaining funds provided for by this Act which do not in fact belong to such person, or makes any false representation in connection with obtaining any funds under the terms of this Act, shall be guilty of a felony.

Section 12. The legislature may provide additional means for raising moneys for the payment of the interest and principal of said bonds and this Act shall not be deemed to provide an exclusive method for such payment.

HeinOnline -- 1923 620 1923

Section 13. If any section, subdivision, sentence or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Section 14. This Act shall be submitted to the people of the State of Montana for their approval or rejection at the next election held in the State of Montana, whether such general election be a special election or the general election provided by law, in accordance with Article V, Section 1 of the Constitution of the State of Montana. Separate ballots shall be used at such special or general election which shall have printed thereon the words: "For An Act Entitled: 'An Act Providing for the Payment of Equalized Compensation to Each Soldier Who Served in the Military or Naval Forces of the United States During the War Between the United States and the German Empire and Its Allies Between the Sixth Day of April, Nineteen Hundred and Seventeen and the Eleventh Day of November, Nineteen Hundred and Eighteen; Authorizing the State of Montana to Become Indebted in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) in Excess of the Constitutional Limit Over and Above Any Bonded Indebtedness Heretofore Incurred or Created and for Which Said State is Now Obligated; Providing for the Issuance and Sale of Bonds of and in the Name of the State of Montana in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) to Acquire Funds for the Payment of Said Equalized Compensation, Etc.' " and the words "Against An Act Entitled: 'An Act Providing for the Payment of Equalized Compensation to Each Soldier Who Served in the Military or Naval Forces of the United States During the War Between the United States and the German Empire and Its Allies Between the Sixth Day of April, Nineteen Hundred and Seventeen and the Eleventh Day of November, Nineteen Hundred and Eighteen; Authorizing the State of Montana to Become Indebted in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) in Excess of the Constitutional Limit Over and Above Any Bonded Indebtedness Heretofore Incurred or Created and for Which Said State Is Now Obligated; Providing for the Issuance and Sale of Bonds of and in the Name of the State of Montana in the Sum of Four Million Five Hundred Thousand Dollars ($4,500,000.00) to Acquire Funds for the Payment of Said Equalized Compensation, Etc.' " and each elector shall designate a preference for either of the provisions by making an X before the proposition for which such elector desires to vote. The votes cast for and against the law above proposed shall be canvassed and determined as provided by the general election laws of the State of Montana.

Section 15. This Act shall be in full force and effect from and after its passage; provided, the same shall be ratified by a

HeinOnline -- 1923 621 1923

majority vote of the people of the State of Montana voting at the next election whether general or special, held in the State of Montana.

Approved March 5, 1921.

The above Chapter was ratified by the people at the General Election held November 7, 1922, and became a law by virtue of the Governor's Proclamation Dec. 14, 1922.

The vote:

For	67,463
Against	62,100

NOTE:

The following Measure was rejected by popular vote at a General Election held Nov. 7, 1922, the vote being as indicated.

PROPOSED PETITION FOR INITIATIVE NO. 26.

A Bill to Propose by Initiative Petition a Law Entitled:

"An Act to Amend Section 11180 of the Revised Codes of Montana of 1921, relating to wagers, for the purpose of assisting State and County Fairs conducting agricultural and livestock exhibitions."

The vote:

For	60,057
Against	66,363

HeinOnline -- 1923 622 1923

LAKE COUNTY

The following resolution relating to the creation of Lake County, Montana, was filed in the office of the Secretary of State at 3:45 P. M. May 11th, 1923, and is printed herein in accordance with the provisions of Section 143 Revised Codes of Montana 1921.

By virtue of the filing of this resolution, Lake County becomes effective on August tenth, 1923.

RESOLUTION

BE IT RESOLVED, by the Board of County Commissioners of Flathead County, Montana, at a session of such Board duly held and had, as provided by law,

THAT, WHEREAS, on the 24th day of January, 1923, said Board of County Commissioners passed a resolution providing for a calling of an election in the manner provided by law for the purpose of submitting to the persons entitled to vote thereon the creation of the proposed new county of Lake and determining whether the territory proposed to be included within the new county of Lake should be established and organized into a new county, and for the election of officers and the location of a county seat therefor,

AND, WHEREAS, in pursuance to such resolution at such time passed by said Board, an election was, on the 30th day of April, 1923, duly had and held to determine the matters hereinabove mentioned,

AND, WHEREAS, the said Board of County Commissioners of Flathead County are now in regular session duly called and held as provided by law for the purpose, among other things, of canvassing the votes cast at such election and to declare the result thereof,

NOW, THEREFORE, BE IT RESOLVED that said Board of County Commissioners does hereby, as a result of such canvass of said votes, find as follows, to-wit:

1. That upon the question of determining whether the territory heretofore proposed be established into the new county of Lake, the Board finds there were 3622 votes cast upon such question and of said votes 2770 in number voted "For the new county of Lake," "Yes", and that at said election 852 votes were cast "For the new county of Lake," "no", and that more than fifty-eight per cent of the votes cast were so cast "For the new county of Lake," "Yes", and that by reason of the result of said election and of the canvass of such votes, as found and determined by the said Board of County Commissioners, the said Board of County Commissioners does

HeinOnline -- 1923 623 1923

hereby declare that the territory hereinafter described has as a result thereof been and is by this resolution duly formed and created as a county of the State of Montana to be known as Lake County, and shall be a county of the seventh class, and the territory included within said Lake County is described as follows, to-wit:

Commencing at the northwest corner of township 25 North, Range 22 West, M. M., thence east on said township line to the east shore of Flathead Lake; thence in a general northerly direction along said lake shore to the meander corner on the south line of Section 12, Township 26 North, Range 20 West, Montana Meridian; thence east along the south line of said Section 12, Township 26 North, Range 20 West, and continuing east along the south line of Section 7, Township 26 North, Range 19 West, to the southeast corner of said Section; thence north along the east side of said Section 7 to the northeast corner of said Section; thence east along the south line of Section 5, Township 26 North, Range 19 West, to the southeast corner of said Section 5; thence north along the east side of said Section 5 to the north line of Township 26 North, Range 19 West, M. M.; thence east along the north line of Township 26 North, Range 19 West, and said Township line extended to the summit of the Swan Range of the Rocky Mountains; thence in a general southeasterly direction along the Swan Divide between the Swan River and the South Fork of the Flathead River, approximately three miles, to Red Owl Mountain; thence continuing southeasterly and southerly along the summit of said divide, approximately 20 miles to Swan Peak; thence southerly along said divide to a point where a line so drawn intersects the north boundary of Missoula County: thence west along the north boundary of Missoula County to the summit of the Mission Range; thence in a southerly and southeasterly direction along the summit of the Mission Range to a point where the summit of the Mission Range intersects the west line of Township 17 N. Range 17 West, thence south along said township line to the southeast corner of Township 17 North, Range 18 West; thence west along the south line of said Township to the northwest corner of Township 16 North, Range 18 West; thence south about three miles to the southeast corner of Section 13, Township 16 North, Range 19 West; thence westerly along the mid-township line of Township 16 North, Range 19 West and continuing westerly along the mid-township line of Township 16 North, Range 20 West, to the point where said line intersects the boundary division line of Sanders and Missoula Counties; thence in a northerly direction to the northwest corner of Township 16 North, Range 20 West: thence west to the southeast corner of Township 17 North, Range 21 West; thence north along township line to the northeast corner of township 18 North, Range 21 West; thence due west along the north line of said township to the center of the main channel of

HeinOnline -- 1923 624 1923

the Flathead River; thence following the center line of the main channel of the Flathead River in a northerly direction to a point where it intersects the south line of the north tier of sections of Township 21 North, thence due west along section line to the southeast corner of Section 6, Township 21 North, Range 23 West; thence due north along section line to the southeast corner of Section 18, Township 23 North, Range 23 West; thence west about one mile to the southwest corner of said Section; thence north along township line to the north line of Township 23 North, Range 23 West; thence east along the North line of Township 23 North, of Range 23 West, to the Northeast corner of said township; thence north along Range line to the northeast corner of Township 24, Range 23 West; thence west along north line of Township 24 North, to the Southwest corner of Township 25, Range 22 West; thence north to the place of beginning.

The said Board of County Commissioners further finds and determines that at such election there were 2618 votes cast in the matter of determining the county seat, and of this number, 2146 votes were in favor of the city of Polson as the county seat of the county of Lake, and 1472 votes were cast in favor of the town of Ronan as the county seat of the county of Lake, and that the said city of Polson having received the highest number of the votes cast at such election for the location of the county seat, and having received a majority of all of the votes so cast on said question, it is hereby further determined and declared that the said city of Polson shall be the county seat of the said county of Lake until removed in the manner provided by law.

The Board of County Commissioners further designates and declares that the following persons received the highest number of votes cast at said election for the office respectively set opposite the name of each of said persons, as follows, to-wit:

J. H. Lyle for the office of State Senator of and for Lake County, Montana.

Frank L. White for the office of Representative in State Legislature of and for Lake County, Montana.

George T. Farrell for the office of County Commissioner, six-year term, of and for Lake County, Montana.

Arthur Schmidt for the office of County Commissioner, four-year term, of and for Lake County, Montana.

M. M. Marcy for the office of Clerk and Recorder, of and for Lake County, Montana.

D. A. Cubbage for the office of Clerk of District Court, of and for Lake County, Montana.

Lyman C. Hall for the office of Assessor of and for Lake County, Montana.

HeinOnline -- 1923 625 1923

Wilbert R. Kelly for the office of Sheriff of and for Lake County, Montana.

Carl Iverson for the office of County Treasurer of and for Lake County, Montana.

Mark H. Derr for the office of County Attorney of and for Lake County, Montana.

Mary E. Eckstein for the office of County Superintendent of Schools of and for Lake County, Montana.

W. F. Millar for the office of County Surveyor of and for Lake County, Montana.

Christian J. Hoeschen for the office of Coroner of and for Lake County, Montana.

J. A. Trow for the office of Public Administrator of and for Lake County, Montana.

And it appearing that said persons are the persons who received the highest number of votes respectively for said offices, each of said persons is hereby declared to be duly and legally elected at such election to the office set opposite the name of such person.

It appears further that Clyde W. Weythman is, and has been for more than one year last past, a duly elected, qualified, and acting County Commissioner of Flathead County, Montana, and during said time has resided in Flathead County within the Boundaries of the New County of Lake, and that said Clyde W. Weythman, within five days after final hearing and determination of said petition for such proposed new County, filed with this Board of County Commissioners his declaration of his intention to become a County Commissioner of said County of Lake; and he is hereby declared to be such County Commissioner for the two year term.

IT IS FURTHER ORDERED that the Clerk of the Board of County Commissioners shall immediately make out and deliver to each of the persons so declared and designed as having been elected to the above named offices a certificate of election duly authenticated by his signature and the seal of Flathead County, and it is further ordered that the said Clerk shall forthwith cause a copy of this resolution to be duly certified and shall transmit the same to the Secretary of State of the State of Montana, to be by him filed as a part of the records of his office, as required by law.

STATE OF MONTANA }
} SS:
County of Flathead }

I, A. J. Shaw, County Clerk and Recorder, in and for the said County of Flathead, State of Montana, hereby certify the annexed and following to be a full, true and correct copy of a certain Resolution as passed by the Board of County Commissioners,

HeinOnline -- 1923 626 1923

at their meeting of May 9th, 1923, together with the endorsement thereon, as the same appears of record in this office. Witness my hand and seal of said Flathead County, Montana, affixed this 10th day of May, A. D. 1923.

(SEAL)

A. J. SHAW,
County Clerk and Recorder.

Filed May 11, 1923 at 3:45 o'clock P. M.

C. T. STEWART,
Secretary of State.
By Clifford L. Walker, Deputy.

HeinOnline -- 1923 627 1923

HeinOnline -- 1923 628 1923

INDEX

ABSENT VOTER.
See "Elections".

AGRICULTURE, LABOR AND INDUSTRY,

DEPARTMENT OF	Sec.	Page
Duties of State Auditor	3645	538
Fees, earnings and contributions perpetually appropriated	3645	538
May require what reports from warehousemen	3589	100
Money to be credited to general fund	3645	538
Money to be disposed of, when	3645	538
Revolving Appropriation Account	3645	538
State Fair Fund	3645	538

ALIENS.

Act not to impair what titles	8	126
"Alien" defined	1	123
Cannot act as executor, etc.	3	125
Counseling, aiding or abetting another to violate Act.	6	126
Definitions of words and terms used in Act	1	123
Forfeiture of land	2	124
Holding land for in any capacity, forbidden	6	125
Land acquired by inheritance, mortgage, etc.	4	125
Mortgage held by must be foreclosed when	5	125
Property forfeited to State to inure to what fund	7	126
Title to land	2	124

APPLES.

Grades and standards defined	4270	290
Failure to inspect	2A	291
Quality required when packed in boxes	4268	290

APPROPRIATIONS

EXECUTIVE DEPARTMENTS

	Page	Gov. pt. Appro.
ACCOUNTANT, STATE		
Budget	586	588
Salaries and expenses	586	588
ADJUTANT-GENERAL		
Salaries and expenses	576, 577	578, 579
Deficiency	560	
ATTORNEY-GENERAL		
Salaries and expenses	576, 577	578, 579
AUDITOR, STATE		
Salaries and expenses	576, 577	578, 579
BANK EXAMINER, STATE		
Salaries and expenses	586, 586	587, 588
BOARD OF CHARITIES AND REFORMS		
Expenses	586, 587	588, 589
BOARD OF EQUALIZATION, STATE		
Salaries and expenses	580, 581	581
BOARD OF EQUALIZATION, STATE (OLD)		
Deficiency	560	
Salaries and expenses	552	
BOARD OF EXAMINERS, STATE		
Salaries and expenses	555	556, 557
BOARD OF HAIL INSURANCE, STATE		
Deficiency	560	
Salaries and expenses	582, 583	

HeinOnline -- 1923 629 1923

APPROPRIATIONS—Continued	Page	Gov. pt. Appro.
BOARD OF HEALTH, STATE		
Salaries and expenses	594, 595	597, 598
BUREAU OF CHILD AND ANIMAL PROTECTION		
Deficiency	560	
Salaries and expenses	594, 595	
CAPITOL BUILDING, STATE		
For new boilers	585	587
Salaries and expenses	585, 586	587, 588
CONSOLIDATED BOARDS		
Deficiency	560	
Salaries and expenses	595, 596	598, 599
DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY		
Deficiency	560	
Horticultural inspection deficiency	560	
Salaries and expenses	583	584
ENGINEER, STATE		
Salary and expenses	585, 586	587, 588
ENTOMOLOGIST, STATE		
Salaries and expenses	595, 596	598, 599
FIRE MARSHAL, STATE		
Salaries and expenses	575	
FORESTER, STATE		
Salaries and expenses	594, 595	597, 598
GOVERNOR		
Mansion, maintenance, deficiency	555	556, 557
deficiency	560	
requisitions	554, 555	556, 557
requisitions, deficiency	563, 601	
Salaries and expenses of office	554, 555	556, 557
GRAND ARMY OF THE REPUBLIC CUSTODIAN		
Salary and expenses	586, 586	587, 588
HIGHWAY COMMISSION		
Administrative expenses	533, 534	
Deficiency	546	
Engineering expenses	533, 534	
Federal Aid	533, 534	
Federal Aid, deficiency	561	
Highway Trust Fund	533, 534	
HISTORICAL AND MISCELLANEOUS LIBRARY		
Salaries and expenses	555, 556	
HORTICULTURAL BOARD, STATE		
Deficiency	600	
INDUSTRIAL ACCIDENT BOARD		
Coal mine inspection deficiency	560	
Salaries and expenses	546, 564	
Vocational rehabilitation	564, 565	
LAND OFFICE, STATE		
Salary and expenses of Land Agent	594, 595	
Salary and expenses of Register	594, 595	597, 598
LAW LIBRARY, STATE		
Salaries and expenses	555	556, 557
LIVESTOCK SANITARY BOARD		
Claims against Bounty Fund (Bounty Fund)	590	
Emergencies payable (from Fund)	591	
Estray claims (Estray Fund)	590	
Other salaries and expenses	591	592
Other salaries and expenses (Payable from Fund)	591	
Salary of clerk	591	
Salaries and expenses (General Fund)	590, 591	592
Salaries and expenses (Board Fund)	591	

HeinOnline -- 1923 630 1923

APPROPRIATIONS—Continued	Page	Gov. pt. Appro.
MONTANA STATE FAIR		
Deficiency	560	
Salaries and expenses	539	540
PURCHASING AGENT, STATE		
Salaries and expenses	576, 577	578, 579
RAILROAD COMMISSION		
Salaries and expenses	576, 577	578, 579
SECRETARY OF STATE		
Administration of motor vehicles dept.	576, 577	
Election and referendum measures	576, 577	578, 579
Salaries and expenses	576, 577	578, 579
TREASURER, STATE		
Salaries and expenses	576, 577	578, 579
Quarterly report	576, 577	578, 579
SUPERINTENDENT OF PUBLIC INSTRUCTION		
Salaries and expenses	595, 596	597, 598
Salaries and expenses of Board of Education	595, 596	597, 599
Salaries and expenses of Normal Training in High Schools	595, 596	597, 599
Salaries and expenses of Vocational Education	595, 596	597, 599
Salaries and expenses of Text-book Commission	595, 596	597, 599
Text-book Commission deficiency	566	

JUDICIAL DEPARTMENT

SUPREME COURT		
Salaries and expenses	555, 555	556, 557
COUNTY ATTORNEYS		
Salaries and expenses	586, 587	
DISTRICT JUDGES		
Salaries and expenses	586	
TRANSPORTATION OF PRISONERS	586, 587	588, 589

LEGISLATIVE DEPARTMENT

SEVENTEENTH LEGISLATIVE ASSEMBLY		
Deficiency	562	
EIGHTEENTH LEGISLATIVE ASSEMBLY		
Incidental expenses	545, 601	
Officers and attaches, per diem	545	
Mileage and per diem of members	545	
Salaries of officers and attaches	601	

STATE INSTITUTIONS

COLLEGE OF AGRICULTURE AND MECHANICAL ARTS		
Agricultural Extension Service	571, 571	573, 574
Agricultural Extension Service, deficiency	600	
Railroad fare, refund	572, 574	
Salaries and expenses	570, 571	572, 573
Sub-stations, salaries and expenses	571, 571	573, 574
INSANE ASYLUM, STATE		
Deficiency	558	
Salaries and expenses	567, 567	568
MONTANA STATE INDUSTRIAL SCHOOL		
Deficiency	558	
Salaries and expenses	547, 548	549, 550
MONTANA SCHOOL FOR DEAF AND BLIND		
Deficiency	558	
Salaries and expenses	547, 548	549, 550
MONTANA SOLDIERS HOME		
Hospital and heating plant	547	549
Salaries and expenses	547	549, 550

HeinOnline -- 1923 631 1923

APPROPRIATIONS—Continued	Page	Gov. pt. Appro.
MONTANA STATE NORMAL COLLEGE		
Salaries and expenses	571, 571	573, 574
MONTANA STATE PRISON		
Deficiency	558, 601	
Salaries and expenses	567, 567	568
To purchase land	448	
To purchase livestock	449	
ORTHOPEDIC COMMISSION		
Salaries and expenses	594, 595	597, 598
SCHOOL OF MINES, STATE		
Deficiency	558	
George W Craven, Consulting Engineer	570, 571	573, 574
Salaries and expenses	570, 571	572, 573
STATE ORPHANS HOME		
Salaries and expenses	547, 548	549, 550
STATE UNIVERSITY		
Salaries and expenses	570, 571	572, 573
Students refund, deficiency	558	
TUBERCULOSIS SANITARIUM, STATE		
Chidrens pavilion	552	553
Salaries and expenses	547, 548	549, 550
VETERANS WELFARE COMMISSION		
Salaries and expenses	555, 555	556, 557
VOCATIONAL SCHOOL FOR GIRLS		
Salaries and expenses	547, 548	549, 550

MISCELLANEOUS

	Page
BEAVER RANCH COMPANY	
Deficiency	559
BOARD OF MEDICAL EXAMINERS	
Deficiency	566
BOB GORDON	
Deficiency, feeding drug addicts	569
COMMERTON HARDWARE COMPANY	
Tax refund	559
DAWSON COUNTY	
Tax refund	559
DEER LODGE COUNTY	
Tax refund	559
DELPHY, W. D.	
Settlement of expenses incurred	553
DEPARTMENT OF PUBLIC INSTRUCTION	
Deficiency	560
FEEDING DRUG ADDICTS	
Deficiency	562
FINCE, STELLA	
Tax refund	559
FIREMEN DISABILITY FUND	
Deficiency	563
GALLATIN COUNTY	
Tax refund	559
GENERAL ELECTRIC COMPANY	
Balance of judgment	551
GODDARD, I. D.	
Tax refund	559

HeinOnline -- 1923 632 1923

APPROPRIATIONS—Continued	Page	Gov. pt. Appro.
HILL COUNTY		
Tax refund	559	
MONTANA EXTENSION SERVICE		
Deficiency	558	
NATIONAL GUARD		
Deficiency	560	
NESTOR, SAM	554	
PUBLIC PRINTING		
Deficiency	560	
SANDERS COUNTY		
Tax refund	559	
SHERIDAN COUNTY		
Tax refund	559	
STATE BOARD OF POULTRY HUSBANDRY		
Deficiency	560	
STILLWELL, JAMES L.	566	
TERMINAL ELEVATOR		
Deficiency	560	
TRANSPORTATION OF PRISONERS		
Deficiency	561	
Deficiency (Daniels County)	570	

AUTOMOBILES
See "Motor Vehicles"

BANKS AND BANKING	Sec.	Page
Attachment of property prohibited	6109h	246
Checks must be presented within what time	1	271
Consolidation, assets and liabilities	6109f	245
Definitions of terms used in Act	6014a	240
Fees and expenses of State Examiner	1	236
Fees to be paid to State Examiner	221	29
Impairment		
assessment of stock	6109d	243
notice by Superintendent of Banks	6109d	243
proceedings of directors	6109d	243
Superintendent of Banks may take possession when	6109e	245
taxation of suspended banks	6109g	246
Insolvent Banks		
not to receive deposits except in trust	6081	242
penalty of officer receiving deposits	6081	242
Liability of pledgee	6036	24
Liability of stockholders	6036	24
Limitation of loan on real estate	6062	241
Quarterly statements	4767	239
Reports called for by Superintendent of Banks	6074	232
Reports to Superintendent of Banks	6071	231
Voluntary liquidation, proceedings in	6109	244

BIRD PRESERVES
See "Game Preserves"

BOILERS		
Inspection		
dinkey engines classed as traction engines	2726	402
engines and engineers who are excluded from article	2726	402
notice to be given by owner or operator of traction engines	2726	402
purchaser of steam boiler, duty to notify inspector	2726	402
purchaser of steam boiler, entitled to what	2726	402
traction engines	2726	402
Inspector		
designated inspector of steam and other boats and vessels	3859	270
fees for inspecting steam and power vessels	3875	270

BONDS, PUBLIC
See also "Counties", "Cities"

"Amortization bonds", defined	2	84
Bonds of state and municipal corporations shall be upon the amortization plan, when	1	84
Consideration of bids	3	85

HeinOnline -- 1923 633 1923

	Sec.	Page
BONDS, PUBLIC—Continued		
Interest, limitation	3	85
Notice of sale, contents of	4	85
Notice of sale, copy to be sent to Register of State Lands	5	85
"Serial bonds", defined	2	85
BOUNTIES		
Bounty shall be paid when	4½	199
Co-operation with Federal authorities	2	198
County Commissioners, duties and powers concerning	2083	83
Creation of Bounty Fund	4	199
Disbursement of Bounty Fund	4	199
Destruction of wild animals conducted under supervision of whom	2	198
Furs, skins and specimens to be sold to whom	3	198
Petition for levy of tax, number of signatures required	2083	83
Petition shall be presented within what time	2083	83
Proceeds of sales to be paid to Bounty Fund	4	199
Supervision of destruction	2	198
Trappers salaries to be paid out of what fund	3	199
Tax levy on stock to be made by whom	4	199
"Wild Animals", defined	1	198
BUILDING AND LOAN ASSOCIATIONS		
Corporations which are embraced under name	1	278
Delinquent shares may be forfeited how	1	273
Escheat of unclaimed shares	1	273
Fees to be paid to State Examiner	221	29
Shares in arrears	1	273
Withdrawal value ascertained how	1	273
BUS TRANSPORTATION		
See "Common Carriers"		
BUTCHERS		
Failure to keep records and hides	5	201
Hides shall be kept and exhibited	3	201
"Licensed Butchers", defined	4	201
Licenses required annually	2	201
Purchases from pedlers, requirements	6	202
Records to be kept by butchers and meat dealers	1	200
Repeal of laws not to effect pending proceedings	8	202
Violation of Act, penalties	7	202
BUTTE		
See "Cities and Towns"		
BUTTER		
See "Dairies and Dairy Products"		
CANADIAN THISTLES		
See "Noxious Weeds"		
CARRIERS		
See "Common Carriers"		
CHATTEL MORTGAGES		
Advances secured by	8275	64
Mortgage may be executed to secure what	8275	64
On livestock, may include increase and wool	1	264
Preference of indebtedness, order of	8275	64
Property which may be mortgaged	8275	64
Removal or sale of mortgaged property without consent of mortgagor	8291	41
Statement of advances and payments to be made when and by whom	8275	64
CITIES AND TOWNS		
Authority to license and regulate soft drink establishments, pool and billiard halls	1	394
Deposit of city funds	4767	237
Ice or snow upon streets or alleys, non liability	1	105
Improvement districts, may include unplatted territory when	1	32
Investment of sinking fund	1	234
Lighting Districts		
assessment and contracts for	5266	33
assessment levy, lien of	5266	33
boundary of district may be changed when and how	5266	33
collection of assessments	5266	33
maintenance fund	5266	33
maintained by contract	5266	33

HeinOnline -- 1923 634 1923

CITIES AND TOWNS—Continued	Sec.	Page
Limitation on tax levy	5194	449
Mayor may veto or modify decree of police commission	4	295
Police Commission		
appointment, qualifications and terms of office	1	292
findings conclusive when	4	294
power to discharge or discipline policemen	4	294
power to procure evidence	4	294
Policemen		
active and eligible list	5	296
age retirement	6	296
appointment	2	292
charges, presentment and trial	4	294
examination of applicants	3	293
false statements by applicant, penalties	3	293
jurisdiction of District Court	4	295
number may be limited by whom	5	296
qualifications	6	296
suspension without trial	4	295
vacancies filled how	5	296
Power to borrow money for public parks and grounds	5159	283
Power to license and control carriers by automobile	3	444
Special Improvement Districts		
extended district, when created	1	392
protests against improvement	2	393
Commissioner-Manager Plan		
Accepting passes by commissioners or other officers, penalty	5413	51
Accounting system	5466	58
Adoption of plan, certificate of	5404	49
Budget	5502	62
Chief of police, powers	5465	56
City manager, powers	5465	57
Civil Service Board		
appointment and terms of office	5471	61
powers, duties, removal and vacancies	5471	61
Commissioners		
contracts	5413	50
meetings	5448	55
official bond and oath	5443	54
omitted elections	5411	50
passes, etc, not to be accepted by	5413	50
qualifications of	5413	50
shall hold no other office, excepting	5413	50
special election, calling and publication	5404	49
special meetings	5448	55
term of office	5411	49
vacancies caused by absence	5448	55
Department of Finance		
powers and duties of director	5466	58
Director of public safety, office and duties	5465	56
Dismissal and reduction in rank of officers	5665	57
Elections		
adoption of plan to be held how often	5404	49
ballots, form and contents of	5415	51
campaign expenses, statement of	5418	53
electors, qualification of	5415	52
electors at fiscal elections	5442	53
returns to be made when and how	5415	52
Fire-chief, duties	5465	57
Fiscal year	5502	62
Laws in force	5515	63
Liability of heads of departments for negligence and loss	5466	59
Mayor		
powers of	5444	54
who shall be	5444	54
vacancy in office of	5444	54
Ordinances, form, contents and passage	5448	55
Patrolmen, additional may be appointed when	5465	56
Pensions for police and firemen	5465	57
Police judge, appointment and jurisdiction	5470	61
Public money, collection and disbursement of	5466	59
Salaries of officers and employees	5507	63
Special police, authority of	5465	57
Supplies, purchase of	5466	59
Suspension of officers and employees	5465	57
Termination of terms of old officers	5411	49
Vouchers, conditions precedent	5466	59
Warrants not to issue without proper voucher	5466	58
Consolidation of County and City Government		
Act not affected by partial invalidity	120	338
Advisory board, appointment, duties and compensation	42	314
Assessor, duties of	52	317

HeinOnline -- 1923 635 1923

CITIES AND TOWNS—Continued Consolidation of County and City Government	Sec.	Page
Claims against municipalities	60	319
Claims, to be examined and approved before payment	61	319
Commission		
absence from meeting, penalty	13	304
as county board of health, powers	81	326
compensation and mileage	13	304
election of	5	300
general proceedings	9	303
majority vote, when necessary	12	303
may change or abolish departments when	38	313
meetings of	8	303
member not to be appointed to any other office	110	335
members recalled when	104	333
nomination of candidates	5	300
number, qualifications, term of office	7	301
official declaration at first meeting	118	337
powers concerning transition of government	119	338
president, election, powers and duties	10	303
proclamation calling election	5	300
quorum	12	303
records to be kept by clerk	11	303
rules and order of business	9	303
shall not request appointments or removals	35	312
vacancy in	7	301
who to be declared elected	98	331
Compensation, schedule to be established	41	314
Consolidation deemed effective when	118	337
Contracts and obligations, certificate required	62	320
Contracts		
changes and alterations in	76	324
existing to be continued	115	336
preliminary requirements	62	320
to be let how and when	75	323
to be void when	63	320
Corporate powers of municipality	6	300
Departments of municipality enumerated	38	312
Department of Finance		
audit and account division of, functions	47	316
duties and powers of director	45	315
duties of director regarding claims	61	319
information to be furnished by officer	40	313
investigation of accounts of deceased or retiring officers	48	316
list of persons in administrative service	40	313
monthly schedule to be furnished Commission	46	316
Department of Health		
director, qualifications and duties	80	325
Department of Law		
director, qualifications, powers and duties	44	315
not to be joined with others	38	313
Department of Public Works		
director in charge of all works	88	327
qualifications and duties	79	325
powers and duties	78	324
Depositories		
additional security may be required	66	321
bonds or securities to be given by banks	64	320
can pay out funds how, only	70	322
class of securities designated	65	320
designated by whom	64	320
funds to be deposited in	68	322
interest on securities to be returned to whom	65	320
interest to be paid by	69	322
record of securities given by	67	321
securities to remain in force, when	67	321
Division of Purchases and Supplies		
bids on purchases and sales	51	317
purchasing agent, duties and powers	50	317
supplies to be furnished how	51	317
Division of Treasury		
duties, qualifications and bond of treasurer	49	316
moneys to be paid into	49	316
Elections		
bond or fiscal	28	309
commissioners, nominations	5	300
commissioners, to be held when	5	300
laws governing	90	328
merger, conduct of and form of ballot	4	299
merger petition, form and contents	3	299
merger, proclamation calling	3	299
merger, question to be submitted	2	299
nominating petitions	91	328
nomination of candidates for commissioner	5	300
officers who shall conduct	89	327

HeinOnline -- 1923 636 1923

CITIES AND TOWNS—Continued Consolidation of County and City Government	Sec.	Page
polls to be open during what hours	90	328
proclamation calling	5	300
special and general to be held when	5	300
Elections, Fiscal		
preliminary steps which may be taken before	28	309
Elections, Municipal		
names on ballots and machines	98	331
Elections, Primary		
acceptance of nomination	93	329
ballots, blank spaces on	96	330
ballots, form of for Commissioner	94	329
nominating petition	91	328
nominating petitions, form of	92	329
nominating petitions to be filed when, where and how	93	329
order of names on ballot determined how	95	330
party designation on ballot forbidden	94	329
publication of notice of	97	330
Elections, Recall		
ballot, form of	103	332
commissioner may be removed by	99	331
date of holding	101	332
effect of officer resigning	105	333
nomination of candidates to succeed recall members	102	332
petition for shall not be filed until when	106	333
petition for to be returned in what time	100	332
petition, signatures required	100	332
preliminary procedure	99	331
recalling more than one commissioner	102	332
voting machine not to be used in	103	332
Employees and subordinates, number fixed by whom	39	313
Existing indebtedness, district charged with	59	318
Fees, emoluments, commissions, etc.	107	334
Fire Department		
director to be chief in charge	82	326
disability fund	83	326
Fiscal year, defined	54	318
Franchises, granted how	17	305
Funds, investment of	69	322
Funds to be deposited when	68	322
Indebtedness, limitation	72	323
Initiative and Referendum		
ordinance, amendment or repeal of	24	307
ordinance, election	22	307
petition, amendment of	31	310
petition, determination of sufficiency	30	309
petition for ordinance, proceedings	20-21	306
petition, signatures and form	29	309
Investigation of account of deceased or retiring officers	48	316
Investigation of departments, officers and affairs	43	314
Lighting and Sprinkling Districts, laws governing	88	327
Limitation on powers to borrow money	73	323
Manager		
appointment and removal	32	310
general powers and duties	36	312
may attend and be heard at sessions of commission	37	312
power to appoint officers and employees	33	311
removal of officers and employees	34	311
Merged Corporations, political status	118	337
Merger authorized	1	298
Merger election, conduct of and ballots	4	299
Merger, election proclmation	3	299
Merger, petition, form and contents	3	299
Merger, special elections	3	299
Merger, question to be submitted	2	299
Officers and Employees		
appointment and term	33	311
bond of those named	112	335
compensation graded, classified and fixed	41	314
continuation of those in office	117	336
forfeiture of office upon becoming candidate for another office	111	335
official oath	113	335
political participation forbidden	108	334
salaries not to be paid when	40	313
shall not be surety on anothers bond	112	335
shall not have financial interests in what	114	336
suspension or removal	33	311
Ordinances and Resolutions		
adoption by initiative or referendum	20-21	306
ballot, in initiative or referendum elections	27	308
codification, revision and publication	15	305
electors may approve or reject	25	307

HeinOnline -- 1923 637 1923

CITIES AND TOWNS—Continued Consolidation of County and City Government	Sec.	Page
emergency, defined	17	305
enacted by election, in force when	23	307
existing ordinances to continue in force	116	336
form and passage	14	304
initiative petition, proceedings	20	306
initiative petition, proceedings	21	306
proposed by petition	19	305
publication of	18	305
record and authentication	18	305
referendum petition, effect and proceedings	26	308
revision of, how made	16	305
tax levy, in effect when	17	305
to take effect when	17	305
Police Court, jurisdiction, and qualifications	85	326
Police Department		
chief of police in charge	77	324
powers and duties of director	77	324
Policemen		
retirement on half pay	6	296
qualifications for office	6	296
Political activities forbidden	109	334
Public improvements, assessment for	53	317
Public improvements, initiated prior to Act	115	336
Public Works, construction and maintenance	86	327
Public Works, laws governing	88	327
Sinking fund	74	323
Special improvement districts	87	327
Superintendent of Schools	84	326
Taxation		
collection of taxes, when and how	58	318
district levies	59	318
existing indebtedness	59	318
limitation on amount of annual assessment	55	318
not affected by section 55	56	318
ordinance for to be provided	59	318
special levies, authority to make	57	318
Treasurer, liability on official bond	71	322
Treasurer, monthly statement	69	322
Wilful or corrupt violation of Act	110	335
City and County of Butte		
Accounts of appropriation items	62	501
Act to apply to what territory and when	1	480
Act to be in effect when after adoption	131	523
Administrative Service		
Officers and Employees		
appointed by manager	29	490
compensation	37	493
emoluments of office not permitted	115	519
forbidden to make what solicitations	116	519
list of, duties regarding	36	493
not to hold party offices	117	519
number of employees fixed by whom	35	492
political activities forbidden	116	519
political pressure in tenure forbidden	117	519
recovery of erroneous payment to	36	493
removal or suspension	30	490
removal proceedings	30	490
Adoption of Act, effect of	127	522
Appropriation ordinances	52	498
Appropriation to continue until when	61	501
Appropriations for sinking fund	78	506
Assessment, maps and records	49	496
Assessor, duties and powers	48	496
Bonds, notes and warrants, in anticipation of taxes	76	505
Bond of officers and employees	121	520
Budget, form and contents	51	497
Citizens Advisory Board		
appointment, duties and powers	38	493
Claims to be paid how	63	502
Contracts, alterations in made when and how	81	508
Contracts, awarded how	80	508
Commission		
absences, penalty	9	483
additional matters included in tax rate	59	501
annual designation of municipal depositories	68	503
annual tax levy	53	498
appropriation ordinances	10	484
clerk, duties	7	483
compensation and payment	9	483
creation of special improvement districts	55	499
designation of depositories	45	495
first meeting	4	482

HeinOnline -- 1923 638 1923

CITIES AND TOWNS—Continued City and County of Butte	Sec.	Page
judge of election of its members	5	482
majority necessary when	8	483
meetings, held when and where	4	482
meetings, who entitled to be present	33	492
members and terms of office	3	481
mileage of members	9	483
not to hold what other offices	3	482
not to request appointment or removal of officers	31	491
powers concerning transition of governments	128	522
power over its members	5	482
power to change or abolish departments	34	492
power to compel attendance	8	483
president, compensation	9	483
president, official position and powers	6	482
president and vice-president elected when	6	482
qualifications	3	482
questions of adopting to be submitted by, when	129	522
quorum	8	483
rules and order of business	5	482
schedule of compensation	37	493
special meetings called how	4	482
tax levy for existing indebtedness	58	500
transfer of unincumbered balances	60	501
vacancies how filled	3	481
vice-president to act as president when	6	482
who shall be declared elected commissioner	98	513
Contracts heretofore entered into	124	521
Department of Finance		
accounts of items of appropriation	62	501
audit and investigation, accounts of retiring officers	44	495
creation of department	34	492
department of purchases, duties	46	496
director in charge, duties in general	41	494
division of assessment, powers and duties	48	496
division of audit and account, duties	43	495
employees not listed, not paid	36	492
examination of payrolls and claims	64	502
land value and tax maps	49	496
liability for wrongful issue of warrants	64	502
list of all employees	36	492
monthly financial statement	42	495
notice of defalcation	44	495
report of rate of tax levy required	53	498
special assessment, public improvements	50	497
supplies, purchase and payment	47	496
treasurer, duties	45	495
treasurer liable for want of care, when	75	505
treasurer, monthly statement of funds in depositories	73	505
treasurer not liable on bank failure when	75	505
vouchers and warrants	63	501
Department of Health		
commission shall be county board of health	86	509
creation of department	34	492
director, powers as coroner and county health officer	85	509
director, qualifications and powers	85	509
Department of Law		
creation of	34	492
director, powers and duties	40	494
shall not be joined to any other department	34	492
Department of Police		
creation of	34	492
director, duties and powers	82	508
director to be chief of police	82	508
Department of Public Works		
creation of	34	492
construction, maintenance and operation	91	511
director, powers and duties	83	508
director, qualifications	84	509
plans and estimates required	91	511
Depositories		
additional security to be required when	70	504
can pay money out how, only	74	505
designation of banks	68	503
funds shall be withdrawn from bank when	70	504
funds to be deposited in	72	504
interest on daily balances	73	505
record of securities required	71	504
securities to continue in force when	71	504
securities required	69	503
Effect of adjudicating any section invalid	132	523
Elections		
ballot, blank spaces	104	515
ballot, form and contents	102	515

HeinOnline -- 1923 639 1923

CITIES AND TOWNS—Continued
City and County of Butte
ballot, order of names ... 103 515
ballot to be used upon adoption of Act ... 130 523
clerk of commission, duties ... 96 512
county clerk and commission to act when ... 96 512
elector, number of votes allowed ... 102 515
held to elect commissioners when ... 98 513
judges and clerks, appointment and compensation ... 97 513
names on ballot at June election ... 106 516
names printed on ballot when ... 101 514
nominating petitions, form of ... 100 514
nomination by petition ... 99 513
notice of election, publication ... 105 515
party designation forbidden on ballot ... 102 515
petition, filing and procedure ... 101 514
ties to be determined by lot ... 106 516
who shall be declared elected commissioner ... 98 513
Elections, Primary
laws of state applicable ... 98 513
to be held when ... 98 513
Elections, Recall
affidavit requesting recall election ... 107 516
ballot, form of ... 111 518
effect of election ... 112 518
held when ... 109 517
petition must be returned and filed when ... 107 516
proceedings on filing affidavit ... 107 516
recalling more than one commissioner, proceedings ... 110 517
resignation before election ... 113 518
subsequent recall petition not to be filed in what time ... 114 518
sufficiency of petition, clerks duty ... 109 517
voting machines forbidden ... 110 518
who may be recalled ... 107 516
Fire Department
disability fund ... 88 510
director in charge as chief ... 87 510
Fiscal year, defined ... 51 497
Funding debts, beginning of first fiscal year ... 77 506
Funds to be deposited where ... 72 504
General powers of merged corporations ... 2 481
Initiative, Referendum and Recall
amending petition, clerks duty ... 27 489
assembling and filing petitions ... 26 489
certificate of clerk ... 26 489
signatures, form and affidavits ... 25 488
Investigation of officers or departments ... 39 494
Investment of idle funds ... 73 504
Investment of sinking funds ... 79 507
Limitation to total indebtedness ... 76 505
Manager
appointments by ... 29 490
appointment of one head to several departments ... 34 492
appointment, qualifications, official status ... 28 489
audit of accounts of director of finance ... 44 495
budgets, preparation and contents ... 51 497
citizens advisory board, appointment ... 39 493
commissioner not to be appointed manager ... 28 489
compensation ... 28 489
general powers and duties ... 32 491
privileges at meetings of commissioners ... 33 492
removal decision final ... 28 489
responsibility ... 29 490
sinking fund account, powers ... 78 506
suspension or removal from office ... 30 490
terms, removal or suspension ... 28 489
Money how drawn from treasury ... 61 501
Municipal Court
jurisdiction, powers, duties and qualifications ... 90 510
police court established ... 90 510
Name of merged corporation ... 2 480
Offices abolished ... 126 522
Officers and Employees
forbidden to have interest in what ... 123 521
list of ... 36 492
officers to continue until when ... 126 522
official oath ... 122 521
schedule of compensations ... 37 493
Ordinances and Resolutions
amendments of ordinance or resolution ... 12 484
amendment by initiative, submission ... 19 486
appropriations, preparation, form and passage ... 52 498
contempt ordinance ... 39 494
continuing in force ... 125 521

HeinOnline -- 1923 640 1923

	Sec.	Page
CITIES AND TOWNS—Continued		
City and County of Butte		
deemed appealed	125	521
emergency measures defined	13	484
emergency measures, franchises not	13	485
emergency measures, required vote to pass	13	484
introduction and form	10	484
majority vote necessary to pass	8	483
procedure in passage of	10	484
record and publication of	14	485
requiring prompt settlement by officers	45	495
revision, codification and publication	11	484
shall take effect when	13	484
special improvement districts	55	499
tax levy for existing indebtedness	58	500
tax levy ordinance	54	499
Ordinances by Initiation		
petition proposing, requirements	15	485
petition to be submitted to commission when	16	485
procedure upon submission of petition	16	485
proposed, to be submitted when	18	486
submission to electors	17	486
submission of repealing ordinances	20	487
Ordinances by Referendum	23	488
ballot to be used at election	23	488
certification of sufficiency of petition	22	487
effect of filing petition	21	487
electors may approve or reject ordinances	21	487
fiscal ordinance, taking preliminary steps	24	488
petition, contents of	21	487
proceedings of commission upon certification	22	487
question to be submitted when	22	487
subject to referendum when	21	487
suspension of ordinances on filing petition	22	487
Powers to be vested in whom	3	481
Power to borrow money	77	506
Public improvements to be completed	124	521
Purchasing agent, duties	46	496
Reversion of unincumbered balances	65	501
Sinking fund board	79	507
Sinking fund in charge of whom	79	507
Special Improvement Districts		
continuation of existing districts	58	500
contract not to be entered into until when	65	502
contracts void when	67	502
designation and tax levy	55	499
laws which are applicable	95	512
money in treasury deemed available for improvements	66	502
notice to property owners	94	512
power and procedure in creation	92	511
report of manager to include what	93	511
Status of merged corporations	1	480
Suit to compel sinking fund appropriation	78	506
Superintendent of Schools		
appointment, powers and compensation	89	510
Supplies, purchases and payment of	47	496
Taxation		
collected how	57	500
laws, not applicable to municipality	59	501
levy for county purposes	59	501
limitations applied to what indebtedness	56	500
limitation on tax levy	54	499
question of tax levy to be submitted when	54	499
report of tax levy required	53	498
special assessment, public improvement	50	497
special improvement district levy	55	499
tax levy for existing improvement districts	58	500
tax levy, procedure	53	498
Transfer of balances	60	501
Voucher for claim required	63	502
Warrants shall state purpose	62	501
COMMON CARRIER, BY AUTOMOBILE		
Act not to apply to inter-state commerce	10	447
Bond required of transportation company	6	445
Cities and towns may license and regulate	3	444
Definitions of words and terms	1	443
Effect of adjudging part of Act unconstitutional	11	447
Expenses of Railroad Commission to be audited	7	446
License fees	8	446
Permits may be revoked when	5	445
Permits or licenses not to be exclusive	4	444
Railroad Commission, proceedings and appeals before	7	446
Railroad Commission supervision	3	444

HeinOnline -- 1923 641 1923

	Sec.	Page
COMMON CARRIER, BY AUTOMOBILE—Continued		
Rates, charges and fares	3	444
Transportation companies required to obtain license	4	444
Transportation on highways, when forbidden	2	444
Violation of Act or order of Commission	9	447
CONSOLIDATION OF CITY AND COUNTY GOVERNMENT		
See "Cities and Towns"		
CONSTITUTION		
Additional Article No. 21 proposed	2	386
Amendment, Section 10, Art. 9 to be submitted	1	261
Amendment of Article XII, Sec. 15 to be submitted		613
Amendment of Article XVI, Sec. 7 to be submitted		612
Article 22 proposed for submission	1	395
Soldiers bonus amendment		Ch. 137-395
CO-OPERATIVE MARKETING ASSOCIATIONS		
Annual report to Commissioner of Agriculture required	6445	406
CORPORATIONS		
See, also, "Religious and Benevolent Associations"		
"Sleeping Car Companies"		
License Tax		
assessment and corrected returns filed where	2302	409
determination of taxes due	2303	410
effect of amendment	5	410
fees payable when	2300	408
fiscal year, notice to be given	2299	407
jurisdiction conferred upon what court	2303	409
license fee, how computed	2299	407
notice of assessments	2300	408
returns	2300	408
returns of net annual income	2299	407
trustees, receivers, etc., to make returns	2299	407
witnesses, attendance procured how	2303	410
CORPORATIONS, FOREIGN		
Additional fees to be paid when	4	380
Annual report, contents	2	379
Corporations having no par-value of stock prohibited from entering state	5	381
Determining capital employed in state	3	380
Failure to file annual report, penalty	6	381
Filing fees to be paid to Secretary of State	1	379
COUNTIES		
County Attorneys		
duty to prosecute violation of provisions concerning bond sinking fund	3	19
County Auditor		
creation of office in classified counties	4824	289
duties to be performed in counties without auditor	2	289
Bonds		
action to compel County Commissioners to perform duty	4622	39
amortization bonds may be issued when	4614	37
funding of bonds and warants	4614	37
interest, terms and conditions	4614	38
limitation and amount	4614	37
may be issued for what purpose	4614	37
no commissions to be paid	4614	37
shall not be sold for less than par	4614	37
sinking funds, investment	1	234
tax fund to be used for no other purpose	4622	39
tax levy for payments	4622	38
County Clerks		
duties of	1	228
County Commissioners		
authority concerning insect extermination	2	44
authority to determine and levy tax to exterminate insects	3	44
authority to exterminate rodents	1	42
duty concerning county deposits	4767	237
duty concerning State Examiners reports	1	48
general and permanent powers enumerated	4465	254
investment of sinking fund	1	234
judges of election, number to be appointed	588	104
judges of election shall be appointed by, when	587	104
power to fix compensation and number of deputies and assistants	4874	230
Deposit of county funds	4767	237

HeinOnline -- 1923 642 1923

	Sec.	Page
COUNTIES—Continued		
Deputies and Assistants		
compensation and number, fixed by Commissioners	4874	230
Fees to be paid to State Examiner	221	29
Librarian, appointment, qualifications and salary	4565	120
Officers, mileage allowed, using his private car	1	229
Superintendent of Schools		
report to State Treasurer number of teachers employed	1212	269
Surveyor		
county commissioners to appoint deputy surveyor for road improvement districts when	1652	404
Treasurer, duty to give triplicate receipts	4751	248
COUNTIES, NEW		
Lake County		
resolution declaring creation and giving boundaries of		623
DAIRIES AND DAIRY PRODUCTS		
Adulterated milk; manufacture, sale or exchange forbidden	2623	109
Babcock Test		
adopted	3570	75
examination of operators	3570	75
false manipulation and erroneous reading of Test	3570	77
fee to be paid by operator	3570	75
method of operation, prescribed	3570	75
Butter		
makers name required on package	3571	81
standard measures	3571	81
Imitation Butter		
"Butter" shall not be used upon what containers	2622	68
butter substitutes shall be marked and labeled how	2622	68
coating, powdering and coloring prohibited	2627	69
hotels and resturants using imitation butter, duty	2622	68
oleomargarine and substitute butter shall be stamped or marked how	2622	68
poisonous coloring matter, manufacture and sale of, prohibted	2627	69
products which shall not be sold	2622	68
Cream Stations, location and sanitary regulations	3570	78
Definitions	3568	71
Definitions	3569	72-74
Duty of Department of Agriculture	3568	71-72
Factories and cream buying stations to register location	3569	73
Factories shall report when and to whom	3569	75
False weights or measures, penalty	3571	81
Inspection powers of Commissioner of Agriculture	3570	80
Inspection, refusing to permit or hindering	3570	80
License Fees		
required of factories	3282	81
schedule of	3569	74
Licenses		
required	3569	73
revoked when	3569	73
shall expire when	3569	73
to be procured by cream stations	3570	77
Milk, skimmed, label and sale	2628	69
Records of sample analysis, prima facie evidence	3568	72
Samples of dairy products and imitations	3568	72
Sanitary Board	3567	71
Sanitary places required	3570	78-79
Sanitary supervision by State Livestock Santiary Board	3568	71
Standard measure for cheese	3571	81
Standards, regulation of	3568	71
Trade-marks, registration of	2629	70
Unfair discrimination, defined and forbidden	2630	70
Unsanitary places, penalty for operating	3570	79
Violation of Act, penalty	2631	70
DAIRY-STOCK AND BREEDING ASSOCIATIONS		
See "Building and Loan Associations"		
DISTRICT COURTS		
Jurisdiction to act in chambers	1	111
Proceedings in leasing property of decedents	10256	281
Records of bonds in criminal cases	1	107
DRAINAGE DISTRICTS		
Additional assessment in case of error	7342	274
Taxes, collection of	1	191
Taxes, duty of county treasurer	1	191

HeinOnline -- 1923 643 1923

	Sec.	Page
ELECTIONS		
Absent Voters		
application for ballot	717	432
county clerk, duty	718	433
marking and mailing ballot	721	433
Judges, appointment	587	104
Number of judges to be appointed	588	104
Primary Elections		
arrangement of names on ballot	651	384
ballots, number, arrangement and names on	651	383
fees for filing nominating petitions	640	382
names written on ballot counted how	651	384
nominating petitions, form of	641	382
nominating petition to be filed when	640	381
nominating petition to be filed when	644	385
number of ballots to be provided	652	385
register of candidates to be kept	645	383
sample ballots, furnished when	652	385
Special, Fiscal Election		
duty of county clerk concerning lists	2	262
qualification of electors	1	262
ESTATES OF DECEASED PERSONS		
Lease of property, proceedings	10256	281
Lease, requirements and effect	10256	282
EUGENICS		
See "Sterilization"		
FARM LOANS		
See also "Public Funds". Chap. 6.		
Amortization plan adopted in investment of public funds	1928A	19
FARM WAREHOUSES		
Application for license and inspection	2	127
Certificate issued by State Inspector	6	129
Certificate of storage may be received when	1	127
Co-operative credit associations	9	131
Holder of certificate holds chattel mortgage lien on grain	7	130
Inspectors		
appointment, qualifications and compensation	5	128
duties	6	129
oath of office and bond	5	129
Insurance by holder of certificate	8	131
Holder of certificate entitled to what amount of grain	4	128
License, duration and fee	2	127
Negotiability of warehouse certificate	4	128
Regulation governing delivery of grain to be prescribed by whom	7	130
Sealing warehouse and posting notice	6	130
Test and certificate of grain in warehouse	6	129
Warehouse certificate, form and negotiability	4	128
Warehouse certificate may be issued when and by whom	3	127
Weekly report of county inspector	6	130
FEDERAL GOVERNMENT		
Recovery of taxes from	Ch.149	427
appeals from State Board of Examiners	6	429
claims to recover taxes, presented when and where	6	429
compensation of state	4	428
duty of State Examiners to procure legislation	2	428
employment and compensation of counsel	4	428
escheat of unclaimed money	7	429
notice of claimants	5	428
payment to claimants	6	429
power of State Board of Examiners to recover	1	427
recovery of taxes illegally collected	1	427
taxes recovered to be paid into state treasurer	3	428
FEDERAL PRISONERS		
Sheriff must receive and keep	1	297
Support of	2	297
FELONY		
Malicious killing of livestock, evidence required	1	135
Mutilating, destroying or concealing hides, feloneously	1	203
Unlawful sale or removal of mortgaged chattels	8291	41
FINES AND FORFEITURES		
Disposition of proceeds of	12433	231

HeinOnline -- 1923 644 1923

	Sec.	Page
FISH AND GAME		
Beaver, capture or killing forbidden, exceptions	3722	220
Beaver, skins of, tagging and disposition	3722	220
Cascade County, open season for game birds	3701	216
Closed seasons, Commission may declare	3653	206
Closed season for fishing may be changed by whom	3694	211
Commission		
may change closed season for fishing	3694	211
may open and close fish or game season when	3702	216
meetings, quorum and records	3652	204
powers and duties in general	3653	204
Deer		
killing forbidden in designated territory	3697	214
number and kind one may kill	3697	214
open and closed season	3697	214
Definitions	3681	207
Districts and game refuges	3653	206
Districts and refuges, establishment of refuges	3653	206
Duck and geese, closed season and limit to killing	3703	217
Education and biological department	3653	206
Elk		
number which may be killed in one season	3696	212
open season for	3696	212
preserves designated	3696	212
Fines and bonuses, collection of	3753	224
Fines to be paid into what fund	3653	224
Fish, limit in length	3694	210
limit to number	3694	210
ladders, power of commission	3653	205
method of catching permitted	3714	218
screens and wheels	3653	205
Fur bearing animals, closed season	3704	217
Game birds which may not be hunted or killed	3700	215
Guides, licenses	3745	221
Hatcheries maintained by Commission	3653	205
License, commission for selling	3707	218
License fees, classified	3685	207
License money to be paid to credit of what fund	3685	209
Methods of capturing game forbidden	3694	210
Migratory birds, closed season	3703	217
Migratory birds, number one may kill in day	3703	217
Mountain sheep	3699	215
Muskrats, killing forbidden during what period	3704	218
Number of fish caught per day, limited	3694	210
Number of game birds which may be killed in one day	3701	215
Nurseries, power of Commission	3653	206
Open season for game birds named	3701	215
Predatory animals, destruction of	3653	205
Predatory animals, defined	3681	207
Private Lakes and Ponds		
"artificial", defined	3697	211
license and bond of owner	3695	212
may capture fish in, how	3695	211
stocking	3695	211
Residents license fee	3685	208
Residents of state, who deemed	3685	208
Rest grounds for migratory birds	3653	206
Sale of game or fish	3742	223
Seines		
fish which may be caught with	3714	219
license for required	3714	219
may be used when and where	3714	218
size of mesh	3714	219
Shipment		
labeling package	3733	223
non-resident to present license to carrier	3732	223
permit to residents	3731	222
shipment out of state forbidden when	3730	222
Tackle which may be used	3694	211
Taxidermist, license and monthly reports	3751	224
Trappers license	3685	209
Violation of Act	3685	210
Wild birds	3723	222
FOOD		
See "Dairies and Dairy Products"		
FORECLOSURE OF MORTGAGES		
Mortgages on State Lands	1938	252

HeinOnline -- 1923 645 1923

	Sec.	Page
GAME PRESERVES		
Little St. Joe Game Preserve		
creation and boundaries	1	247
police regulation	2	247
Spotted Bear Game Preserve, created	1	235
Teton Spring Creek Bird Preserve	1	65
Wolf Creek Game Preserve		
creation and boundaries	1	22
regulation and matter prohibited within	2	22
GATES		
Leaving open, penalty	11528	109
GASOLINE		
See "Taxation"		
GRAIN ELEVATORS		
See "Warehouses, Public"		
HAIL INSURANCE		
Appeals from appraisements	360	93
Application for insurance	350	88
Arbitration; bonds to be required when	360	94
Cash to accompany application when	350B	88
Chairman of Board, salary	363	95
Collection of delinquent tax	354A	92
County treasurer, duties of	354	91
Delinquent taxes, collection	354A	92
Duties and powers of State Board of Equalization	351	89
Exemption of benefits from execution	13	96
Expenses of re-appraisement	360	94
Hail insurance districts, establishment of	351	90
Insurance may be cancelled when	350B	88
Limit of insurance per acre	358	88
Losses, adjustment and payment	361	94
Losses exceeding revenue, procedure and powers	361	95
Losses, reports to be made when and how	358	93
Mortgage lien	351	90
Notice of assessment	351	90
Notice of rates to be printed on application form	351	90
Public Officers, duties under Act	363	95
Reappraisement expenses	360	94
Reserve fund	352	91
State Board of Hail Insurance		
annual report of Board to Governor	363	96
appointment and term of members	350	87
creation of Board	350	87
Governor shall appoint three members	350	87
members subject to removal	350	87
meetings of Board	350	87
organization, powers and duties	350	87
vacancies to be filled how	350	87
State Hail Insurance Fund		
disbursement	355	92
State Treasurer to place money collected in what fund	355	92
Tax levy modified by percent of losses	352	91
Tax levy shall embrace what	352	90
Tax levy upon what lands	351	89
Tax lien	351	89
Taxation, rate of	351	89
Transfer of fund	355	92
HIDES		
See, also, "Butchers"		
Bill of sale must be obtained by whom	1	133
Bill of sale shall contain what	1	133
Evidence and allegation in prosecution	2	203
Falsifying bill of sale, misdemeanor	2	134
Mutilating, concealing or destroying, feloneously	1	203
Must be submitted for examination	1	133
Purchases in quantity, how made	1	133
Penalty for violation of Act	3	134
Record to be kept by purchaser	1	133
Violation of Act a felony	3	203
HIGHWAYS		
Special Road Districts		
corporate body when	1652	403
duty and powers of county commissioners	1652	404
improvements which are a charge upon districts	1652	404
purposes and power of districts	1652	403

HeinOnline -- 1923 646 1923

	Sec.	Page
HIGHWAY COMMISSION, STATE		
Limitation on expenditure from Highway Fund	3	534
HISTORICAL AND MISCELLANEOUS LIBRARY		
Name changed to "Historical Society of Montana"	1	121
HISTORICAL SOCIETY OF MONTANA		
Art gallery for portraits	12	123
Building to be occupied by whom	5	122
Building, furnishing of	6	122
Building, grounds for	9	122
Building to be perpetually maintained by state	11	123
Claims to be audited and allowed by whom	7	122
Commission to be dissolved when	8	122
Custodian of fund	3	121
Montana Pioneer Historical Fund created	2	121
Name	1	121
Pioneer Historical Commission		
appointment and members	3	121
duty to procure design for Home	4	122
office of Commission	10	122
quorum	10	122
State Treasurer, duties	3	121
IMITATION BUTTER		
See "Dairies and Dairy Products"		
INHERITANCE TAX		
Act, effect of	26	157
Additional appraisers	15(3)	155
Ancillary letter, petition for to include whom	12(2)	152
Apportionment to Counties	23	165
Appraisement upon transfer	15(4)	156
Commissioner of Insurance, duty	15(4)	156
Contingent incumbrances	15(6)	157
Corporations		
liability for tax when	11	149
penalty for violating section	11(7)	151
shall not transfer shares or securities until when	11(6)	151
transfer of corporate stock	11	149
transfer of assets of non-resident decedents	11	149
County Superintendents		
annual report to State Treasurer	23	165
apportionment of funds by	23	166
County Treasurer, reports and payments to State Treasurer	19	163
Deductions for debts, expenses and Federal tax	11	150
Definitions	22	164
Discount on taxes paid, within what time	6	146
Disposition of tax collected	23	165
Donatio mortis causa	19	161
District Court, jurisdiction and proceedings	12	151
order determining values, contents and notice	15(10)	158
rehearing of order	15(11)	159
Estates in excess of twenty-five thousand dollars	3	144
Estates in expectancy, postponed taxes on	15(9)	158
Executor, bequests to	10	149
final account not to be allowed when	5	146
sale by to pay tax	7	146
settlement with State Board of Equalization	20	163
to pay tax when	7	147
Exemptions	4	144
Imposition of tax	1	140
Insurance, part of estate when	1	143
Interest determinable by death	15(7)	157
Joint estates	1	142
Legal department of state, duty	18(4)	162
Lien of tax	7	147
Non-residents		
determination of taxes due on property in state	12(4)	152
notice of transfer of assets by corporations	11	149
transfer by corporations of stocks or securities	11	149
Public Administrator, compensation	17	160
compensation	17(3)	161
duty to investigate estate when	17(3)	161
duty to notify board when	17(2)	161
Primary rates defined	2	143
Rate of taxes	2	143
Rates, estate exceeding $25,000	3	144
Reassessment, court proceedings	15(12)	159
Retroactive clause	1(4)	141
Special Administrator, appointment	17	160

HeinOnline -- 1923 647 1923

	Sec.	Page
INHERITANCE TAX—Continued		
Special Appraisers		
appointment	13	154
compensation and duties	14	155
report of	15	155
State Board of Equalization		
agreement and settlements with executors and administrators	20	163
appeals from decisions of	12	153
application to determine tax due	12(3)	150
biennial report to Governor	18(2)	162
duty to require information, make orders, rules and regulations	11(6)	151
duty to supervise execution of law	18	161
notice of hearing to determine taxes	15(2)	155
order to furnish information	12(4)	153
power to employ assistants and experts and fix their compensation	24	166
powers	18	161
receipts for taxes	21	163
Tax		
bond for payment	9	148
contingent estate payable when	15(8)	157
due when	5	146
heirs or devisees to pay executors when	7	147
imposed when	1	144
on allowance to executor in excess of fees	10	149
payment in advance	8	148
property partly within state	11	150
receipts for to be in triplicate	5	146
refunding of	8	147
to be paid when	5	146
to bear interest when	6	146
unpaid, collection and procedure	16	159
Transfers in contemplation of death	19	161
Transfer of corporate shares	11	149
Transfer under power of appointment	1(5)	142
Valuation		
clear market value	1	143
determination by court when	15	155
future estates	15(5)	156
Witnesses before Board	25	167
INSANE		
See "Sterilization", Ch. 164.		
INSECTS		
Authority of county commissioners	2	44
Compensation of laborers	1	44
County warrants to be registered when	3	44
Tax to be levied when	3	44
INSURANCE		
See also, "Life Insurance"		
Commissioner of, powers and appointment of deputy	1	263
INTOXICATING LIQUORS		
Complaint for search warrant, form of	11071	286
Compromise of civil action	11079	288
Enjoining violation of law	11075	288
Law enforcement fund created	11084	288
"Private Dwelling" defined	11071	285
Sale of to minors, forbidden	1	86
Search warrants for private dwellings, when issued	11071	285
Search warrants may be issued when and by whom	11071	285
Unlawful possession, prima facie evidence of what	11079	288
Violation of prohibition law, penalty	11075	287
IRRIGATION		
Water Commissioners		
apportionment of fees and expenses	7147	26
clerk of district court, notice to be mailed by	7147	26
hearing on report, date and notice	7148	27
IRRIGATION DISTRICTS		
Action to amend or modify decree establishing district, limitation of time	7231A	115
Adjudication of acreage	7191-2	117
Bond Commission report to be filed when	7218	528
Bonds of district	3968	416
cancellation of unsold	3969	419

HeinOnline -- 1923 648 1923

IRRIGATION DISTRICTS—Continued	Sec.	Page
cancellation of unused	7214	464
certificate of Secretary of State	7218	528
commissioners, duty before circulating petition	7216	527
conditions required in all issues	7212	462
delivery after sale	7215	465
delivery to contractor in lieu of sale	3969	419
disposition of other than by sale	7214	464
execution and record	7212	463
expenditure of proceeds	7220	466
expense and construction bonds, resolution for issue	7216	527
form and terms to be fixed	7210	461
interpretation of laws named	7218	528
investment of sinking fund	3973	421
investment of surplus proceeds	7215	465
lien of when issued to redeem warrants	7229	469
limitation on amount	7218	528
may be issued for what purpose	7210	460
petition for	7210	461
prior lien on what	3970	420
refunding, cancellation of	7230	470
refunding, exchange of	7230	470
refunding, form, execution and record	7227	468
refunding, how and when issued	7226	467
refunding, lien of	7228	469
refunding, sale price	7230	470
report and investigation of bond commissioner	7210	462
resolution to sell	7214	464
sale of	7214	464
sinking fund	3973	421
special tax assessment to pay	3970	421
validity of, court proceedings to determine	7211	524
validity of, petition to determine	7211	524
Boundries, hearing and proceedings on petition to correct	7189A	113
Certified bonds, legal investment of what fund	3968	418
Classification of land, confirmation	7235	475
Commissioners		
compensation of	7173	453
corporate authority vested in	7174	454
limitation of power to contract	7174	455
meeting, organization and office	7171	453
official bonds	7173	454
powers and duties	7174	454
resolution for bond issue	7210	461
rules and by laws	7174	457
shall not be interested in contracts	7173	453
vacancy in Board how filled	7177	459
Compensation of clerk and employees	3964	414
Contract with Federal Government	7174	456
Contract with Federal Government	7210	461
Co-operation with Federal Government	7166	451
Directors		
election of, when to be held	3990	424
meeting and organization	3960	414
office and records of	3960	414
qualifications, oath of office and term	3990	425
District Court		
duty of	3956	414
duties of clerk	3956	413
jurisdiction retained for certain purposes	7189A	113
Electors		
joint owners	7184	460
qualifications and number of votes	7184	459
Evidence of title	7166	452
Evidence of title, what sufficient	3956	412
Expenses of district, how paid	7224	466
General plan of purchase and construction	7174	457
Homesteader	7166	452
Indebtedness, limitation on	3975	424
Inspection and supervision of works	7224	466
Irrigable acreage, appeal from determination of	7235B	478
Irrigable acreage determined, not to be diminished	7235B	477
Irrigable acreage, determination and maps	7235B	476
Irrigable lands, determination of character	7245A	473
Irrigated lands, rate of charges against	7234	470
Maps and bonds to accompany petition	3956	413
Non-irrigable land not subject to what tax	7235A	475
Organized by whom	7166	451
Petition for organization, signatures and proceedings	3956	412
Petition for permanent adjudication of acreage	7191	117
Petition to correct errors concerning boundaries	7189A	113
Preliminary expenses and examination	3956	413
Proceedings upon petition for adjudication of acreage	7192	117

HeinOnline -- 1923 649 1923

	Sec.	Page
IRRIGATION DISTRICTS—Continued		
Public Service Commission, duties and co-operation	3965	415
Public Service Commission, final report	3965	415
Pumping, cost	7234	471
Recommendation of Public Service Commission	3956	414
Secretary, bond of	7173	454
State Engineer		
duties	3965	415
expenses assessed as cost	7166	452
investigation and report	3956	414
preliminary report	7166	452
State lands, inclusion in district	4014	425
Taxation		
acreage may be readjusted when and how	7190	116
annual levy, how determined and apportioned	7235	471
annual levy, limitation of	7235	472
apportionment in case of sale	3947	423
assessment of omitted land	7235	472
assessment on Federal contracts	7236	267
bonds and property of District exempt	3970	421
change of levy, how made	3974	422
collection of taxes	1	191
duty of county treasurer	1	191
for payment of bonds and interest	3973	421
lands of district which are not subject	3974	422
lien of special on irrigated land	7235A	474
lien on irrigable acreage	7235B	477
lien shall attach when	3974	423
levy and collection of annual tax	3974	421
levy by Public Service Commission	3974	423
levy entered by county clerk	3974	423
levy may be modified or cancelled when	7235	472
levy for Federal contracts, cancelled when	1	266
payment of bond assessment in advance	7235B	477
refunding	7235A	475
warrants in payment of taxes, limitation	3974	423
"The Plan of Reclamation", defined	3965	415
Validation of decrees establishing existing districts or authorizing bond issue	7231A	115
Water works, construction of	7174	456
JUSTICES OF THE PEACE		
Proceedings after arrest of delinquent child	12280	110
JUVENILE DELINQUENTS		
Proceedings after arrest	12280	110
LARCENY		
Unlawful sale or removal of mortgaged chattels	8291	41
LICENSE TAX		
See "Sleeping-car Companies".		
"Corporation License Tax"		
"Taxation"		
LIFE INSURANCE, STOCK PLAN		
By-laws, adoption and extension of	1-2	23
Election of directors	1	23
LIVE-STOCK		
See also, "Butchers"		
"Hides"		
Estrays		
duty of transportation company receiving	3341	47
may be shipped with other stock when	3341	47
record to be kept by shipper	3341	47
Inspection of brands before shipment	3324	45
Malicious killing; evidence required	1	135
Railroad not to transport without certificate of inspection	3324	45
LIVE-STOCK COMMISSION		
See also, "Bounties"		
Money appropriated for the use of	1	104
Moneys to be transferred to fund	1	200
LOAN COMPANIES AND ASSOCIATIONS		
Dairy stock and breeding companies, powers	2	278
Declared to be Building and Loan Associations	1	278
Subject to law governing Building and Loan Associations	1	278
Supervision of, by State Bank Examiner	1	278

HeinOnline -- 1923 650 1923

LOPHOPHORA WILLIAMSII
See Chap. 22, p. 40

MEMORIALS AND RESOLUTIONS	Sec.	Page
House Joint Memorial		
concerning Great Lakes-St. Lawrence Waterways Project		604
memorializing Congress for appropriation for constructing of public roads through National Forest and Indian Reservation		602
House Resolution		
requesting the appointment of Edward E. Morris as caretaker or Superintendent of American Cemeteries in Europe		602
Senate Joint Memorial		
concerning the taxability of state and federal securities		609
memorializing Congress concerning the issuing of patents to farm units on reclamation projects		608
memorializing Congress to enact legislation providing a forty year term of payment for land in Government Reclamation Projects		610
Senate Concurrent Resolution		
dedicating land in Ft. Ellis Military Reservation to agricultural experimental work		605
Senate Resolutions		
joint Resolution petitioning Congress concerning the price and production of silver		607
substitute joint resolution, petitioning the Interstate Commerce Commission regarding interchange of freight cars		606
MESCAL BUTTONS		
Penalty for selling, offering to sell or give away	2	40
Unlawful to furnish, sell or give away	1	40
MISDEMEANORS		
Leaving gate of another open, penalty	11528	109
MONTANA STATE FAIR		
Appropriation	2-3	539
Fees and earnings to be deposited in general fund	3645	538
State Board of Examiners, powers concerning revolving funds	3645	538
MONTANA STATE PRISON		
Appropriation for purchase of livestock	3	449
Appropriation to purchase land	1	448
Board of Examiners authorized to purchase	4	449
Water right and crop included in purchase	2	448
MORTGAGES		
See "Chattel Mortgages"		
Also, "Foreclosure of Mortgages"		
MOTOR VEHICLES		
Accidents or injury, duty of driver	1	28
Distribution of license money	1760	271
Governmental exempt from license fee	1760	272
License fees of dealers in motor vehicles	1760	271
Transfer of dealers certificate	1760	271
NAMES		
Changed by court judgments		610
NEGOTIABLE INSTRUMENTS		
Provisions destroying negotiability	8412	405
Provisions which will not effect negotiability	8412	405
NEW COUNTIES		
See "Counties"		
NOXIOUS WEEDS		
Commissioner		
notice of owner to comply with law	4509	132
petition for appointment and compensation	4508	131
Expense of eradication of, how paid	4511	132
Officers, power to enter upon land	4512	132
Service of notice	4510	132
Weeds intermixed with growing crops	4512	132

HeinOnline -- 1923 651 1923

	Sec.	Page
OLD AGE PENSIONS		
Amendment to Act, effect	23	198
Board		
annual report to auditor	21	197
authorized to make rules and regulations	2	192
meetings	2	192
created	1	192
procedure in hearing, etc.	22	197
rules and regulations of	6	194
Convictions of crime	18	197
Funeral expenses	12	195
Income and property of pensioner, computation of	7	194
Masculine gender to include feminine	24	199
No other public relief to be furnished	13	196
No vested right in pensioner	12	195
Penalty for violation of Act	17	196
Pensions		
cancellation of	11	195
cancellation on conviction of crime	17	197
certificate	9	195
claim for, made how	8	194
forfeiture	19	197
fraud in obtaining	16	196
inalienable and not transferable	14	196
limitation and amount	4	192
paid from county fund	21	197
paid to trustee when	18	197
paid when and how	10	195
refund from estate of decedent	6	194
refund from estate of decedent	11	195
shall commence when	10	195
suspension of payment	15	196
Qualification of pensioner	6	194
Who entitled to pensions	3	192
Who entitled to pensions	5	192
OLEOMARGARINE		
See "Dairies and Dairy Products"		
OPIUM AND OPIATES		
Possession or sale, unlawfully, penalty	3202	83
OFFICERS		
See "Public Officers"		
OIL AND GAS		
See also, "Taxation"		
Attorney-General, duties under Act	2405	179
Distribution of Federal royalties	1211	268
Failure to make true statement	2404	179
Failure to make statement, proceedings	2405	179
Gross value determined how	2400	176
License required	2398	173
License Tax rate	2398	173
Oil used in development	2398	173
Persons subject to pay tax	2398	174
Proceeds of tax, distribution of	2399	175
Quarterly reports of operators	2403	177
Record of production to be kept how	2402	177
Report of operator	2401	176
Report of operator of numerous wells	2403	178
State Treasurer, duties	2403	178
Tax payable when	2399	175
Tax must be paid quarterly	2403	177
Taxes, refund of excess paid	2403	178
Transportation companies to furnish data	2402	177
PODIATRY		
Acts shall not apply to whom	10	4
Definition	1	2
Examination shall be held when	3	2
Examinations to be had in what subjects	4	3
Examiners, appointment of	3	2
Expenses to be paid from what fund	8	4
License fee	3	3
renewal	5	3
to be paid to whom	7	4
License required	2	2
obtained by fraud	6	4
shall be recorded how	5	3
shall be designated how	5	3

HeinOnline -- 1923 652 1923

PODIATRY—Continued	Sec.	Page
Medical fund board defined	7	4
Penalties for violating provisions of law	9	4
Present practitioners to be licensed when	3	2
Qualification of practitioners	3	2
State Board of Medical Examiners		
compensation	8	4
may grant and revoke licenses when	6	4
POOL AND BILLIARD HALLS		
City authorized to license and regulate	1	394
PROBATE PROCEEDINGS		
See "Estates of Deceased Persons"		
PUBLIC FUNDS		
Application for loans of permanent fund to be made to whom	1930	20
Conversion of existing mortgages into amortization mortgages	1932B	21
Deposit of city and county funds	4767	237
Existing investments may be converted into amortization bonds	1928B	20
Farm loans of permanent funds to be made in what order	1930	20
Interest rates of amortization bonds	1928B	20
Investment of county and city bond sinking fund	1	234
Limit in amount of each mortgage	1932B	21
Mortgages, term, interest and conditions	1932A	21
Mortgages to be made in name of state	1932A	21
State Fund Account		
accounts to be kept by State Treasurer and State Auditor	1	275
deposit of	1	232
Federal Land Grant Income Fund Account	6	277
Federal Land Grant Permanent Fund	4	276
Federal Trust and Agency Fund Acount	4	276
Interest Bearing Investment Fund Account	7	277
new funds to be placed in what account	8	277
receipts and disbursements	2	275
State Trust and Agency Fund Account	3	275
transfer of money from State Banking Fund	3	30
PUBLIC OFFICERS		
Bonds and payment of premiums	6236	406
Expenses upon attending conventions, meetings, etc., allowed when	1	342
Liability for diverting a bond sinking fund to any other purpose	2	18
Liability for failure to provide sinking fund for payment of bonds	1	18
Mileage allowed while using private car	1	229
Traveling expenses, regulations governing	443	342
PUBLIC SCHOOLS		
Distribution of oil and gas royalties	1211	268
District		
act declared an "emergency act"	9	351
act declared an "emergency act"	9	357
additional power to issue warrants and bonds	1	349
additional warrants to be issued for what purposes only	3	355
books to be kept by third class districts	1	66
clerk of third class districts, duty concerning books and accounts	1	66
county attorney shall prosecute removal proceedings	2	67
county auditor or treasurer to examine books when in third class districts	1	66
county treasurer, duty of	4	350
district bonds	See post	
districts shall not be created or boundaries changed when	1023	34
funding bonds may be issued under what condition	3	355
funding bonds may be issued when	2	349
money recovered from insolvent banks, disposition of	7	351
losses in insolvent banks	1	352
officers, expenses upon attending conventions, etc.	1	342
proceeds of funding bonds to be used for what purpose	3	351
registration and delivery of bonds	5	356
removal of trustees or clerks failing to keep prescribed books	2	67
report of officers examining books	3	67
resolution declaring indebtedness be funded	4	350
resolutions fixing terms and conditions of bond	5	356
resolution to be passed by board of trustees	4	356
sale of bonds, proceedings	6	351
sale of bonds, procedure	7	357
system of bookkeeping to be prescribed by whom	1	66

HeinOnline -- 1923 653 1923

PUBLIC SCHOOLS—Continued	Sec.	Page
tax levy for payment of bonds and interest	6	357
tax levy to pay bonds	5	351
trustees authorized to issue additional warrants when	2	355
trustees may fund outstanding indebtedness when	1	355
trustees of third class districts shall keep what books	2	67
District Bonds		
additional bonds may be issued upon majority vote	1224	437
additional power to issue bonds and warrants	1	349
ballot to be used at bond elections	1225	438
bond elections, notice of	1224	437
bond issue resolution	1225	438
conditions, terms and interest	1224	436
county treasurer, duty	1226	439
duty of Board of County Commissioners to make levy	1229	441
election, manner of holding	1225	438
execution and registration of bonds	1225	438
Funding Bonds		
may be issued under what conditions	3	355
may be issued under what conditions	2	349
proceeds of sale, used for what purposes	3	351
registration of	5	356
resolution declaring indebtedness be funded	4	350
resolution fixing terms and conditions of	5	356
sale of, proceedings	6	351
sale of, procedure	7	357
interest, terms and conditions of bonds	2	436
limit of indebtedness	2	436
mandamus to compel tax levy	1229	442
purposes for which coupon bonds may be issued	1224	435
question of issue to be submitted when	1224	436
record to be kept by county treasurer	1229	441
redemption of bonds	1229	441
resolution providing for issue	1225	438
sale, notice of	1226	439
tax bond levy, amount	1229	440
tax bond levy, procedure	1228	439
tax, sinking fund	1226	439
trustees failing to comply with Act	1228	440
Endowment Fund		
county treasurer, liability and accounting	5	17
custody and investment by county treasurer	4	17
establishment of	1	16
income may be used how	3	16
investment of	3	16
memorials for donators	6	18
shall consist of what	2	16
to be kept separate and distinct from other fund	5	17
transfer of, territory being attached to another district	3	17
High Schools, County		
act declared an "emergency act"	9	354
additional powers to issue warrants	1	352
apportionment of tax money	1275	189
attendance free to whom	1282	35
attendance in another county	3	35
Discontinuance		
appraisement of property	6	345
delinquent taxes	5	344
disposition of money received from sale of property	9	346
elections for discontinuance	2	343
may be discontinued when	1	343
money in discontinued school fund disposed of how	2	344
payment of outstanding bonds and obligations	4	344
petition for discontinuance	2	342
preferences to be given in sale	8	345
property to be sold for cash	8	345
sale of property	7	345
Disposition of money recovered from insolvent banks	7	354
Funding bonds		
additional powers of county commissioners	1	352
conditions under which bonds may be issued	2	352
exchange of bonds for warrants	6	354
interest, terms, form and execution	4	353
may be issued when	2	353
registration and delivery	4	353
resolution that debts shall be funded	3	353
sale of bonds and procedure	6	354
tax levy to pay bonds	5	354
Trustees, powers and duties	1271	247
Tax levy for buildings, teachers and contingent expenses	1275	189

HeinOnline -- 1923 654 1923

PUBLIC SCHOOLS—Continued	Sec.	Page
To share county high school money when and how	1280	34
Trustees to certify money required	1275	189
warrants, additional power to issue	1	352
High Schools, County and City		
joint superintendent may be appointed when	1294	346
Investment of common school funds	1928A	19
Rural Districts		
appeal of patrons	1044	184
apportionment of tax funds	1044	185
bonds		
district liability on	1044	186
election for issue, how conducted	1044	186
may be issued and for what purpose	1044	186
refunding, may be issued when	1045	187
question of issue to be submitted	1044	186
sinking fund	1045	187
budget of rural district	1044	184
budget of sub-districts	1044	183
certificate of money required in excess of apportionment	1044	185
county superintendent, secretary of board	1044	186
dissolved district, distribution of funds	1048	188
distribution of money of old districts	1045	187
election to adopt unity system	1042	180
expenses in excess of budget	1044	182
indebtedness of old district	1045	187
salary schedule	1044	185
tax levy		
levied by whom	1044	185
levy for building and other funds	1044	184
purposes of special levy	1044	184
sub-districts levy to be continued until when	1048	188
sub-districts may be dissolved how	1048	188
trustees		
appointment and term	1042	182
compensation	1047	188
elections		
nominating petition	1043	182
how conducted	1032	182
meetings to be held when	1047	188
oath of office	1043	183
powers	1044	183
qualification and election	1043	182
term of office	1043	183
vacancy in office	1043	180
unity system, county may adopt	1042	180
warrants issued by said district	1044	185
Teachers		
duty of county superintendent to prepare examination questions	944	358
teachers certificates		
appeals to State Board from revocation of certificate	1097	370
appeals to State Board, proceedings	1095	370
articulation with neighboring states	1104	374
authority to define terms	1104	378
citizenship and other qualifications required	1088	359
credit to be given for State University course	1100	372
duties, powers, qualifications and compensation of Board	1090	360
duration of existing certificates	1101	372
educational qualifications of teachers	1094	369
essential features to be placed upon and attached to certificate	1104	373
examination fees, disposition of	1095	369
examination of teachers held when and conducted how	1091	361
fees, graded	1104	378
fees, payment and disposition of	1104	378
first and second grade certificates	1104	376
foreign certificates	1092	364
from State University	1092	366
graded and classified	1092	362
granted under what provisions and regulations	1104	373
higher grade certificate, how secured	1099	372
high school certificate valid in what grades	1104	375
issued by other states and institutions	1092	364
jurisdiction and classification	1093	368
life certificates	1092	366
limited	1104B	376
limited, prerequisites	1104B	377
normal training, future requirements	1102	373
qualifications of teachers in high schools and higher grades	1103	373
refund of fees forbidden	1104	378

HeinOnline -- 1923 655 1923

PUBLIC SCHOOLS—Continued	Sec.	Page
registration of	1104	378
regulations shall not discriminate	1102	373
renewals	1098	371
revocation	1097	370
standard and limited, granted without examination when	1104	374
State Board of Educational Examiners created	1089	360
State Teachers Certificate Fund	1095	370
suspension or cancellation	1097	371
suspension or revocation of named certificates	1104	374
Transportation and board of transferred pupils	1010	190
Transfer of pupils to other districts	1010	190
Trustees		
empowered to accept gifts, legacies and devises	1	16
general powers and duties	1	338
legalizing certain purchase or building of dormitories	1	341
PUBLIC SECURITIES		
See also, "Bonds"		
Duties and liabilities of officers to collect and preserve sinking fund	1	18
QUACK GRASS		
See "Noxious Weeds"		
QUIETING TITLE		
Decree, effect of	9487	120
Evidence required	9487	120
Jurisdiction of court	9487	119
Summons, form and publication	9485	118
RAILROADS		
Conditional sale of personal property	6537	426
REDEMPTION		
See "Taxation"		
RELIGIOUS AND BENEVOLENT ASSOCIATIONS		
Articles of incorporation	6455	280
Joint ownership of property	6454	279
May incorporate for what purpose	6453	278
Powers	6455	280
Resolution authorizing corporation	6454	279
RESOLUTIONS AND MEMORIALS		
See "Memorials and Resolutions"		
ROCKY MOUNTAIN SPOTTED FEVER		
Compensation and accounting of exterminator of rodents	3	43
Control fund, created when and how, by county	2	42
County Commissioners authorized to purchase material and appliances	4	43
County Commissioners may appoint persons to kill rodents when	1	42
"Rodents", defined	5	43
SALES		
Conditional sale of personal property of railroads	6537	426
SLAUGHTERING CATTLE		
See "Butchers"		
SLEEPING-CAR COMPANIES		
Action to recover excess tax paid	7	139
Annual statement required	2	136
Attorney-General, duty to enforce collection	7	138
"Board", defined	1	136
Company estopped from questioning action of Board, when	8	139
Delinquent tax to bear interest	7	138
Failure to make report, proceedings	7	138
First tax imposed for what period	9	140
Method of determining valuations	4	137
Notice of determination	5	138
Notice of levy	6	138
Rate of tax	6	138
State Board of Equalization to fix tax how	3	137
State Treasurers receipt to serve as license	10	140
Taxes due under repealed statute	11	140

HeinOnline -- 1923 656 1923

	Sec.	Page
SLEIGHS		
Unlawful to sell or use under prescribed width	1	264
Width of, prescribed	1	264
SOLDIERS BONUS AMENDMENT		395
STATE AUDITOR		
Designated as Commissioner of Insurance	2	263
STATE BOARD OF EDUCATION		
Refunding of students fares	860	108
STATE BOARD OF EQUALIZATION		
See, also, "Sleeping-Car Companies"		
Appeal from determination of board fixing assessments	14	14
Appeals to the board, how and when made	9	12
Appointment of members	1	5
Assessment of omitted property	11	13
Changes in assessments notice of	10	12
Changes in assessment to be transmitted to whom	12	13
Clerks and employees	5	7
Compensation of employees	5	7
Compensation and expenses of members	2	5
Constitutionality of Act, effect of court judgment	18	15
Continuity of acts of former board	7	7
County assessors, supervision of	8	9
Court may modify assessment by the Board when	14	14
Definitions	4	6
Equalization of valuations	8	9
Expenses of former board to be paid how	7	7
Experts may be employed how	5	7
General supervision over what officers	8	10
Hearing of contemplated changes in assessment	10	12
Information, duty of officers to furnish	8	10
Information, refusing to furnish, penalty	14	14
Members, not to participate in politics	2	5
Members, qualifications and duties	2	5
Notice of intended changes in assessment	10	12
Office to be kept where	6	7
Organization, quorum and sessions	3	6
Powers and duties of Board, defined	8	8
Power of Board to procure testimony	8	11
Property which is to be assessed by Board	8	8
Prosecutions to enforce laws, supervision of	8	9
Public officers, duty to give information and co-operate with Board	15	15
Records and minutes	5	7
Reports of municipal corporations	7	8
Reports to Governor and legislature	8	11
Rules	5	7
Seal	17	15
Sessions may be held when and where	3	6
State levy, determined by Board when and how	13	13
Supervision over administration of assessment and tax laws	8	9
Supervision over municipal corporations	8	10
Taxpayers, duty to give information	8	11
Terms of office	1	5
Transfer of records and property of former Board	7	7
Vacancies, how filled	1	5
Witnesses, compensation	15	16
Witnesses, failure to testify, proceedings	15	16
STATE BOARD OF LAND COMMISSIONERS		
Investment of educational and institutional funds	1928A	19
STATE EXAMINER		
Disposition of fees	217	249
Duties of Examiner and assistants	210	225
Duty concerning city and county deposits	4767	238
Duty to examine books of school districts	217	249
Fees of	217	249
Fees of	221	29
Fees and expenses, examining banks	1	236
Powers and duties in recovering Federal taxes for citizens		427
Revolving fund, Department of Agriculture	3645	538
Special fees	221	251
State Examiner Fund created	221	249
Transfer of funds to state general fund	3	30
STATE FUNDS		
See "Public Funds"		

HeinOnline -- 1923 657 1923

	Sec.	Page
STATE INSANE ASYLUM		
Qualifications of superintendent and assistants	1415	102
Removal of superintendent or assistants	1415	103
Salaries and appointment of superintendent and assistants	1415	102
STATE LANDS		
Amortization plan	1860	25
Certificate of purchase to be issued when	1865A	25
Foreclosure of mortgages	1938	252
Lands purchased at mortgage foreclosure	1938	252
May be included in Irrigation Districts when	4014	425
Outstanding certificates, converted to amortization certificates	1861B	26
Payment of purchase price	1860	25
Taxes on mortgaged lands to cease when	2	253
STATE OFFICERS		
See also, "Public Officers"		
Mileage allowed while using private car	1	229
STATE PAROLE COMMISSION		
Office abolished	1	401
STATE PURCHASING DEPARTMENT		
Advertising and bids for supplies	7	171
Advertisement for bids	3	168
Advertisement for legislative supplies	5	169
Agent, duties	2	168
Annual official reports to be published when	6	170
Collusion between bidders	12	173
Contracts in name of state	3	168
Contracts to run for what period	8	172
Contracts, transfer of, forbidden	12	173
Custodian of property, credit and debit	2	168
Emergency purchases	9	172
Inventory of state personal property	2	168
Money received from sales	4	169
Officers and employees not to be interested in any contract	12	173
Opening of bids	11	172
Partiality or favoritism forbidden	10	172
Perishable vegetables and fruits	9	172
Property list and valuation to be returned to	1	168
Records of department	11	172
Reports of institutions concerning crops	4	169
Requisitions for supplies	7	170
Reserve of right of action to state	12	173
Sale of personal property	4	169
State printing	6	170
Warehouses subject to inspection	13	173
STATE TREASURER		
Transfer of funds	2-3	284
Transfer of funds named	1	284
STATE UNIVERSITY		
Refunding students fares	860	108
STATE WARRANTS		
Interest	1	479
Registration and indorsement by state treasurer	1	479
STEAM BOATS		
Inspection of	3859	270
STERILIZATION		
Act to be known as what	1	534
Appeals from decision of Board	6	536
Certificate of chief physician	5	535
Consent	6	536
Definition of terms and words	2	534
Duties and powers of Board of Eugenics	4	535
Felony	7	537
Liability of physician and board	7	537
Operation without consent	6	536
Performed how and by whom	5	535
Purpose of findings and orders of Board	8	537
State Board of Eugenics created	3	535
STREET RAILROADS		
Conditional sales of personal property	6537	426

HeinOnline -- 1923 658 1923

	Sec.	Page
STUDENTS		
See "State University"		
SUPERINTENDENT OF BANKS		
See also, "Banks and Banking"		
Examination of banks on request	6109c	243
Expenses in receivership matters	2	237
Impaired banks, may take possession when	6109e	245
Impaired banks, notice	6109d	243
Impaired banks, rules and regulations in examination of	6109a	243
Special examination of banks defined	6109b	243
Rules and regulations, examination of impaired banks	6109a	243
TAXATION		
See also, "Corporations License Tax"		
"Oil and Gas"		
"Inheritance Tax"		
"Sleeping Car Companies"		
Assessment books, affidavit of clerk	2161	259
Assessment books, delivered to treasurer	2161	259
Claims for penalties paid to be filed when	3	1
County bonds, payment of interest and principal	4622	38
County clerk to charge treasurer with taxes	2163	260
County clerk, affidavit to assessment books	2161	259
County may sell certificate of purchase when	2191	106
Credit of payments	2171	258
Debits and credits upon change of collector	2165	260
Delinquent Taxes		
county may sell certificates of purchase when	2191	106
notice of	2169	257
portion of property to be sold may be designated by whom	2191	105
property to be struck off to the county when	2191	105
redemption by mortgagee or lien holder	2211	107
shall bear what interest	1	257
sale of property	2191	105
to be charged to county treasurers	2180	259
validating former certificates of sale	2191	106
Extermination of insects	3	44
Gasoline License Tax		
dealers tax	2383	431
distributed to service stations	2382	430
distribution of money collected	2392	431
distributors rate of tax	2382	430
original package not included in Act	2382	430
Notice of postponement of sale	2	1
Notice of tax sale	2182	259
Notice of delinquency	2169	257
Payable semi-annually when	1	257
Penalties for taxes of 1922 remitted to what time	3	1
Personal Property		
assessor to report taxes to county treasurer when	2238	265
county treasurer, duty concerning tax	2239	265
county treasurer, liability for tax	2239	266
seizure of property for tax	2239	265
Publication of notice of tax sale	2182	259
Redemption of property purchased by county	1	135
Settlement of treasurer	2174	258
State levy		
state purposes for 1923	1	530
state purposes for 1924	2	530
veterans welfare bonds, 1923	3	530
veterans welfare bonds, 1924	4	530
educational bonds, 1923	5	531
educational bonds, 1924	6	532
Statement to State Board of Equalization	2181	259
Terms used in fixing or limiting tax levy	1	479
Treasurers report of collections and delinquent list	2176	257
When property may be sold for taxes for 1922	1	1
THRESHERMENS LIEN		
Cost in foreclosure suits	1	46
Foreclosure, commenced within what time	8370	47
WAREHOUSES		
See "Farm Warehouses"		

HeinOnline -- 1923 659 1923

WAREHOUSES, PUBLIC	Sec.	Page
Bailed grain subject to attachment when	3588	99
Bonds of warehousemen, track-buyers, dealers and commission men	3589	100
Character of grain to be delivered	3588	99
Definitions	1	97
Delivery of grain to be made to whom	3588	99
Disputes, sampling grain and settlement	3588	98
Duty of Department of Agriculture in case of insolvency	3589a	101
Grain may be stored in one of several warehouses when	3588a	99
Instructions for shipment	3588	98
License fees	3589	101
Penalty for doing business without a license	3598	101
Receipts for grain stored to be delivered when	3588	98
Sampling of grain, disputes and settlements	3588	98
Scale tester, duties	3575	97
Scale tester, fees	3575	97
Storage considered bailment when	3558b	99
Warehousemen		
annual report	3589	100
bonds required	3589	100
duties and liabilities in shipment	3588	98
insolvency of	3589a	101
shall deliver to whom	3588a	99
storing of grain in one of several warehouses	3588a	99

WILD ANIMALS
See "Bounties"

HeinOnline -- 1923 660 1923

CODE INDEX

CODES OF 1921

Sec.		Page
113	Repealed	16
162	Amended	263
180	Amended	479
182	Amended	232
210	Amended	225
217	Amended	248
221	Amended	29
221	Amended	249
350	Amended	87
350A	Added	88
350B	Added	88
351	Amended	89
352	Amended	90
354	Amended	91
354A	Added	92
355	Amended	92
358	Amended	93
360	Amended	93
361	Amended	94
363	Amended	95
443	Amended	343
587	Amended	104
588	Amended	104
640	Amended	381
641	Amended	382
642	Repealed	386
643	Repealed	386
644	Amended	385
645	Amended	383
651	Amended	383
652	Amended	385
675	Repealed	402
676	Repealed	402
717	Amended	432
718	Amended	433
721	Amended	433
836	Par. 7 Repealed	358
837	Repealed	358
838	Repealed	358
839	Repealed	358
840	Repealed	358
860	Amended	108
944	Repealed	358
947	Repealed	358
1010	Amended	190
1015	Amended	338
1023	Amended	34
1042	Amended	179
1043	Amended	181
1044	Amended	183
1045	Amended	187
1047	Amended	187
1048	Amended	188
1074	Repealed	358
1086	Repealed	359
1087	Repealed	359
1088	Amended	359
1089	Amended	360
1090	Amended	360
1091	Amended	361
1092	Amended	362
1093	Amended	368
1094	Amended	369
1095	Amended	369
1096	Amended	370
1097	Amended	370
1098	Amended	371
1099	Amended	372
1100	Amended	372
1101	Amended	372
1102	Amended	373
1103	Amended	373
1104	Amended	373
1211	Amended	268
1212	Amended	269
1215	Amended	31
1224	Amended	435
1225	Amended	438
1226	Amended	439
1228	Amended	439
1229	Amended	441
1234	Repealed	442
1235	Repealed	442
1236	Repealed	442
1237	Repealed	442
1238	Repealed	442
1239	Repealed	442
1240	Repealed	442
1241	Repealed	442
1242	Repealed	442
1271	Amended	347
1275	Amended	189
1280	Amended	34
1282	Amended	35
1294	Amended	346
1415	Amended	102
1652	Amended	403
1760	Amended	271
1860	Amended	25
1861	Amended	25
1928	Amended	19
1928A	Added	19
1928B	Added	19
1930	Amended	20
1932	Amended	21
1932A	Added	21
1932B	Added	21
1938	Amended	252
2081	Amended	199
2083	Amended	83
2122	Repealed	16
2123	Repealed	16
2124	Repealed	16
2125	Repealed	16
2126	Repealed	16
2127	Repealed	16
2128	Repealed	16
2129	Repealed	16
2130	Repealed	16
2161	Amended	259

HeinOnline -- 1923 661 1923

CODES OF 1921—CONTINUED

Sec.		Page
2163	Amended	260
2165	Amended	260
2169	Amended	257
2171	Amended	258
2174	Amended	258
2175	Repealed	260
2176	Amended	258
2180	Amended	259
2181	Amended	259
2182	Amended	259
2183	Repealed	260
2188	Repealed	260
2191	Amended	105
2211	Amended	107
2238	Amended	265
2239	Amended	265
2299	Amended	407
2300	Amended	408
2302	Amended	409
2303	Amended	409
2314	Repealed	140
2315	Repealed	140
2382	Amended	430
2383	Amended	431
2392	Amended	431
2393	Repealed	432
2394	Repealed	432
2398	Amended	174
2399	Amended	175
2400	Amended	176
2401	Amended	176
2402	Amended	177
2403	Amended	177
2404	Amended	178
2405	Amended	179
2622	Amended	68
2623a	Added	109
2627	Amended	69
2628	Amended	69
2629	Amended	70
2630	Amended	70
2631	Amended	70
2726	Amended	402
3202	Amended	82
3282	Amended	81
3324	Amended	45
3341	Amended	47
3346	Repealed	202
3347	Repealed	202
3348	Repealed	202
3349	Repealed	202
3350	Repealed	202
3407	Repealed	200
3408	Repealed	200
3409	Repealed	200
3410	Repealed	200
3411	Repealed	200
3412	Repealed	200
3413	Repealed	200
3414	Repealed	200
3415	Repealed	200
3416	Repealed	200
3417	Repealed	200
3469	Repealed	405
3470	Repealed	405
3471	Repealed	405
3477	Repealed	405
3568	Amended	71
3569	Amended	73
3570	Amended	75
3571	Amended	80
3575	Amended	97
3588	Amended	98
3588a	Added	99
3588b	Added	99
3589	Amended	100
3589A	Added	101
3645	Amended	537
3652	Amended	204
3653	Amended	204
3681	Amended	207
3685	Amended	208
3686	Repealed	225
3694	Amended	210
3695	Amended	211
3696	Amended	212
3697	Amended	214
3699	Amended	215
3700	Amended	215
3701	Amended	215
3702	Amended	216
3703	Amended	217
3704	Amended	217
3707	Amended	218
3714	Amended	218
3722	Amended	220
3723	Amended	222
3730	Amended	222
3731	Amended	222
3732	Amended	223
3733	Amended	223
3742	Amended	223
3745	Amended	221
3751	Amended	224
3752	Repealed	225
3753	Amended	224
3859	Amended	270
3875	Amended	270
3956	Amended	412
3960	Amended	414
3965	Amended	415
3968	Amended	416
3969	Amended	418
3970	Amended	420
3973	Amended	421
3974	Amended	421
3975	Amended	424
3990	Amended	424
4014	Amended	425
4268	Amended	290
4270	Amended	290
4465	Amended	254
4502	Amended	44
4503	Amended	44
4504	Amended	44
4508	Amended	131
4509	Amended	132
4510	Amended	132
4511	Amended	132
4512	Amended	133
4565	Amended	120
4567	Amended	237
4614	Amended	37
4622	Amended	38
4751	Amended	248
4767	Amended	237
4811	Amended	228
4824	Amended	289
4874	Amended	230
5036	Repealed	239
5097	Amended	292
5098	Amended	292
5099	Amended	293
5100	Amended	294
5101	Amended	296
5106	Amended	296
5159	Amended	283
5194	Amended	449
5228	Amended	392
5229	Amended	393

HeinOnline -- 1923 662 1923

CODES OF 1921—CONTINUED

Sec.		Page
5266	Amended	32
5404	Amended	48
5405	Amended	49
5411	Amended	49
5413	Amended	50
5415	Amended	51
5418	Amended	53
5442	Amended	53
5443	Amended	54
5444	Amended	54
5448	Amended	55
5449	Amended	55
5465	Amended	56
5466	Amended	58
5470	Amended	61
5471	Amended	61
5487	Amended	62
5502	Amended	62
5507	Amended	63
5515	Amended	63
5516	Amended	63
6014a	Added	240
6036	Amended	14
6062a	Added	240
6071	Amended	231
6074	Amended	232
6080	Amended	237
6081	Amended	242
6085	Repealed	30
6105	Amended	236
6109a	Added	243
6109b	Added	243
6109c	Added	243
6109d	Added	243
6109e	Added	244
6109f	Added	245
6109g	Added	246
6109h	Added	246
6109i	Added	246
6124	Amended	36
6236	Amended	406
6453	Amended	278
6454	Amended	279
6455	Amended	280
6465	Amended	406
6537	Amended	426
7147	Amended	26
7148	Amended	27
7166	Amended	451
7171	Amended	453
7173	Amended	453
7174	Amended	454
7177	Amended	459
7184	Amended	459
7189A	Added	112
7190	Amended	116
7191	Amended	117
7192	Amended	117
7210	Amended	461
7211	Amended	524
7212	Amended	462
7214	Amended	464
7215	Amended	465
7216	Amended	527
7218	Amended	528
7220	Amended	466
7224	Amended	466
7226	Amended	467
7227	Amended	468
7228	Amended	469
7229	Amended	469
7230	Amended	470
7231A	Added	115
7234	Amended	470
7235	Amended	471
7235A	Added	473
7235B	Added	476
7236	Amended	67
7340	Repealed	274
7341	Repealed	274
7342	Repealed	274
8275	Amended	64
8291	Amended	41
8370	Amended	46
8412	Amended	405
9485	Amended	118
9487	Amended	119
10256	Amended	281
10377	Repealed	167
10378	Repealed	167
10379	Repealed	167
10380	Repealed	167
10381	Repealed	167
10382	Repealed	167
10383	Repealed	167
10384	Repealed	167
10385	Repealed	167
10386	Repealed	167
10387	Repealed	167
10388	Repealed	167
10389	Repealed	167
10390	Repealed	167
10391	Repealed	167
10392	Repealed	167
10393	Repealed	167
10394	Repealed	167
10395	Repealed	167
10396	Repealed	167
10397	Repealed	167
10398	Repealed	167
10399	Repealed	167
10400	Repealed	167
11071	Amended	285
11075	Amended	287
11079	Amended	288
11084	Amended	288
11515A	Added	135
11528	Amended	109
12280	Amended	110
12433	Amended	231
12472	Repealed	298
12516	Repealed	401
12517	Repealed	401
12518	Repealed	401

STATUTES

LAWS OF 1919

Chapter	Section		Page
144	3	Amended	31

HeinOnline -- 1923 663 1923